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APPENDIX

Supreme Court of the United States

OCTOBER TERM, 1970

No. 783

CASSIUS MARSELLUS CLAY, JR.,
also known as MUHAMMAD ALI,

Petitioner,

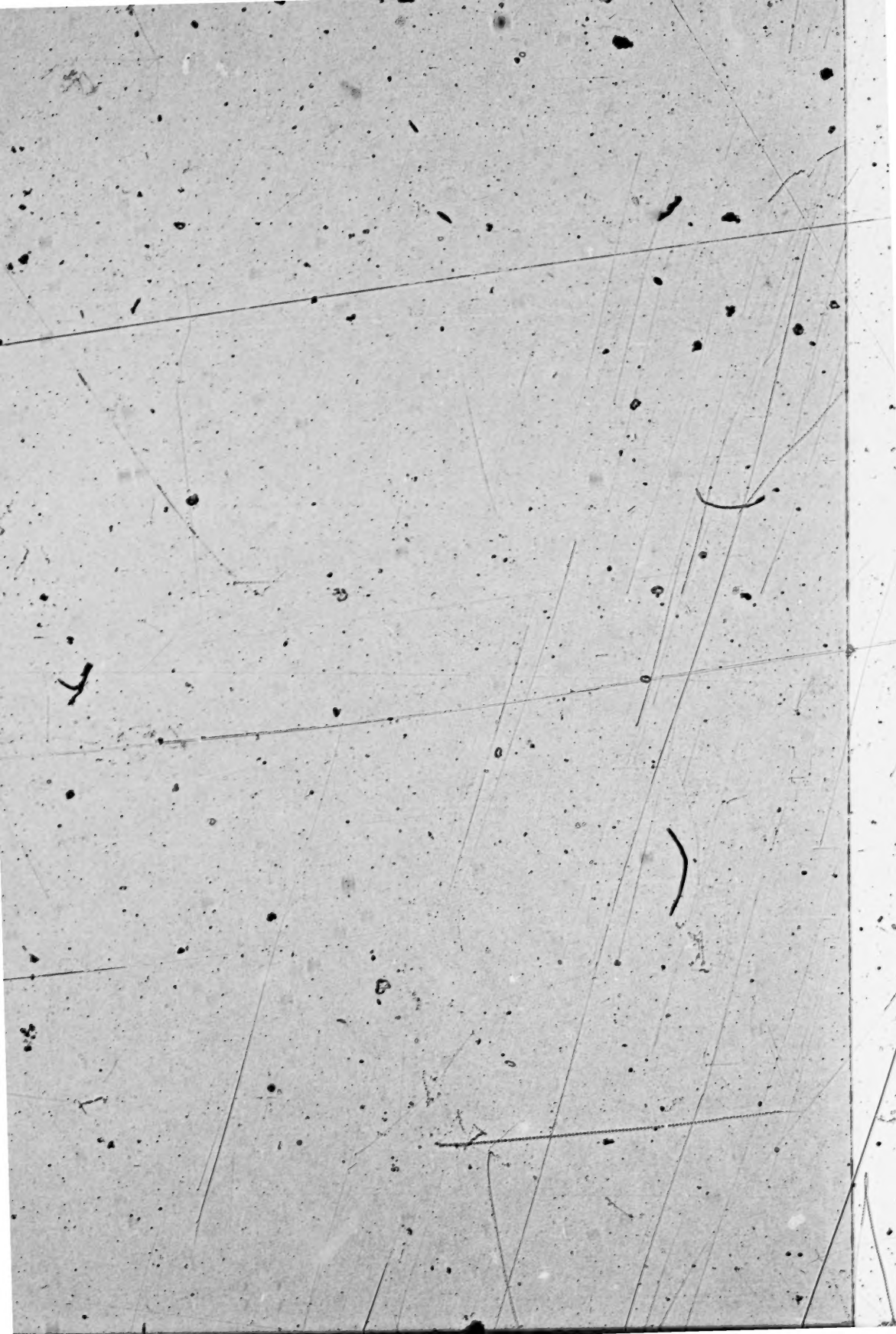
—v.—

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR CERTIORARI FILED OCTOBER 1, 1970

CERTIORARI GRANTED JANUARY 11, 1971



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TESTIMONY AT SPECIAL HEARING

Registrant's Witnesses

Chauncey Eskridge—
Direct 24a

Samuel X. Saxon—
Direct 30a

Mrs. Cassius Clay, Sr.—
Direct 51a

Mr. Cassius Clay, Sr.—
Direct 55a

Cassius M. Clay, Jr.—
Direct 58a
By the Court 86a

Relevant Docket Entries

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

5- 8-67	INDICTMENT filed.
5- 8-67	ARRAIGNMENT: Plea of NOT GUILTY. Bond set at $5,000. Motions to be filed by May 18, 1967 (BCC).
6-19-67	Jury empanelled, sequestered and excused until 6-20-67 (JI).
6-20-67	TRIAL before jury (JI). Evidence heard—concluded. Argument of counsel. Charge of the Court. Verdict of GUILTY received.
6-20-67	Verdict filed.
6-20-67	SENTENCE. 3 YRS. and fine of $10,000 (JI). Deft continued on bond. To file notice of appeal and new bond on 6-21-67. (New bond to be in same amount and under same conditions).
6-21-67	Judgment and Commitment filed (JI). Process issued.
6-21-67	NOTICE OF APPEAL filed. (Copy handed to U.S. Attorney).
4-22-69	JUDGMENT (or Mandate) of U.S. Supreme Court, received and filed. (Judgment of District Court VACATED and cases REMANDED for further proceedings in conformity with Opinion of Supreme Court).
4-22-69	Opinion of Supreme Court received and filed.
6- 2-69	(JI) Defendant appeared with counsel. Motion of Q. Hodges to withdraw granted in open court. Government to file brief. Hearing reset.

Relevant Docket Entries

6- 4-69 (JI) Hearing resumed. Defendant's motion for discovery denied. Evidence heard.

6- 5-69 (JI) Hearing resumed. Evidence heard—not concluded.

6- 6-69 (JI) Hearing resumed. Concluded. Submitted. Briefs to be filed.

7-14-69 Memorandum of the court filed in duplicate (copies delivered to counsel) (denying Defendant's Motion to Dismiss).

7-24-69 (JI) SENTENCE: 5 YRS. and fine of $10,000.00. Defendant may remain at liberty under existing bond.

7-24-69 (JI) JUDGMENT AND COMMITMENT filed and entered. Process issued.

7-24-69 NOTICE OF APPEAL filed.

[7A]

Cover Sheet and Minutes

Minutes of Actions by Local Board and Appeal Board and on Appeal to the President

Dates		Vote Yes	Vote No
5–11–60	Birthdate verified B. of V.S.		
1–19–62	mailed SSS 127 (cur. info. quest.)		
3– 9–62	Class. 1-A	3	0
3–12–62	mailed SSS 110 (notice of class.) Order for armed forces phys. exam.		
11– 4–63	mailed. SSS 223 (Nov. 21, 1963)		
11– 4–63	mailed SSS 127 (cur. info. quest.)		
11–27–63	papers transmitted to L.B. 5, N. Y. for phys. exam.		
12–26–63	papers transmitted to Transfer Bd. 46, Miami, Florida for phys.		
3–18–64	papers returned from phys. exam.		
3–20–64	file transmitted to Ky. State Hdqts		
3–24–64	file returned		
3–26–64	Class. 1-Y	3	0
3–30–64	mailed SSS 110 (notice of class.)		
1–13–65	mailed SSS 127 (cur. info. quest.)		
1– 5–66	papers sent to examining station for determination as to eligibility for service		
2– 3–66	papers returned—acceptable		
2– 3–66	mailed DD 62 (statement of acceptability)		

Cover Sheet and Minutes

SELECTIVE SERVICE SYSTEM
MINUTES OF ACTION—CONTINUATION SHEET

NAME OF REGISTRANT OR STANDBY RESERVIST: Clay, Cassius Marsellus

SS OR SR NUMBER: 15 47 42 127

Dates	Minutes of Actions	Vote Yes	Vote No
2-17-66	Class. 1-A	4	0
2-17-66	Class. 1A-Acc	4	0
2-18-66	mailed SSS 110 (notice of class.)		
2-18-66	mailed SSS 150 (Special Form for Conscientious Objector)		
3-17-66	Class. 1-A Class. 1A-Acc	4	0
3-21-66	mailed SSS 110 (notice of class.)		
3-22-66	Board Members gave permit for extending Appeal Period for 30 days		
[11A]			
3-28-66	Letter of Appeal from registrant received		
4-19-66	Supplemental Papers of Appeal received		
4-21-66	File transmitted to Ky. St. Hdqts for forwarding to Appeal Board. Letter to Cassius Clay and copy of letter to Mr. Edward W. Jacko, Jr. (attorney) advising file being forwarded to Appeal Board.		
5/6/66	File reviewed by Board of Appeal and it is tentatively determined that		

Cover Sheet and Minutes

SELECTIVE SERVICE SYSTEM
MINUTES OF ACTION—CONTINUATION SHEET

NAME OF REGISTRANT OR STANDBY RESERVIST: Clay, Cassius Marsellus

SS OR SR NUMBER: 15 47 42 127

Dates	Minutes of Actions.	Vote Yes	Vote No
	the registrant should not be classified in Class 1-O or in a lower class. [Signatures omitted]		
1–10–67	file returned from appeal Board Class. 1A 3-O		
1–10–67	mailed SSS 110 (notice of class.) & SSS 111 (Class. advice) to Hayden C. Coyington, New York.		
1–12–67	File presented to Bd. Members at meeting at 1:30 p.m. Members reviewed, but classification was not reopened. retained in 1A which Appeal Bd. classified	4	0
Jan. 19, 1967	Class 1A At the written request of General Lewis B. Herschey, Director of Selective Service, pursuant to Section 1625.3(a) of the Selective Service Regulations Local Board No. 47 did re-open and consider anew the classification of the Registrant, Cassius Marcellus Clay. After re-examining the file of said registrant and the records thereon, upon discussion		

Cover Sheet and Minutes

SELECTIVE SERVICE SYSTEM
MINUTES OF ACTION—CONTINUATION SHEET

NAME OF REGISTRANT OR STANDBY RESERVIST	SS OR SR NUMBER
Clay, Cassius Marsellus	15 47 42 127

Dates	Minutes of Actions	Vote Yes	Vote No
	and due dilberation said Local Board No. 47 upon a 3-0 vote did classify said registrant, Cassius M. Clay as 1-A	3	0
	[Signatures omitted]		
[12]			
1-19-67	mailed SSS 110 (notice of class.) & SSS 111 (Class. advice) to Hayden C. Covington, Esq. Jackson Heights, New York		
1-26-67	Letter of appeal received from registrant		
1-31-67	mailed file to Ky. State Selective Service Headquarters, Frankfort, Ky. for forwarding to appropriate appeal Board in Houston, Texas.		
2-20-67	File returned from Appeal Board Houston, Texas		
2-20-67	mailed SSS 110 (notice of classification) & SSS 111 (Classification advice) to Hayden C. Covington, Esq. 34-44 76 St. Jackson Heights, New York 11372		

Cover Sheet and Minutes

SELECTIVE SERVICE SYSTEM
MINUTES OF ACTION—CONTINUATION SHEET

NAME OF REGISTRANT OR STANDBY RESERVIST	SS OR SR NUMBER
Clay, Cassius Marsellus	15 47 42 127

Dates	Minutes of Actions	Vote Yes	Vote No
2–20–67	File forwarded to Ky. St. Hdqts.		
3– 1–67	Letter sent to registrant advising him that his complete file had been forwarded to the National Selective Service Appeal Board, on an Appeal taken by General Lewis B. Hershey, Director.		
3– 6–67	Classified 1-A by National Appeal Board	3	0
3–14–67	File returned from National Appeal Board.		
3–14–67	SSS Form 110, Notice of Classification, mailed to registrant, advising him of decision of National Appeal Board.		
3–14–67	SSS Form 111, Classification Advice, mailed to Mr. Hayden C. Covington, Esq., 3444 76th Street, Jackson Heights, New York, advising him of National Appeal Board's Decision.		
3–14–67	SSS Form 252, Order to Report for Induction, mailed. Date of Reporting April 11, 1967. Copy sent to Mr. Hayden C. Covington. SSS Form		

Cover Sheet and Minutes

SELECTIVE SERVICE SYSTEM
MINUTES OF ACTION—CONTINUATION SHEET

NAME OF REGISTRANT OR STANDBY RESERVIST	SS OR SR NUMBER
Clay, Cassius Marsellus	15 47 42 127

Dates	Minutes of Actions	Vote Yes	Vote No
	127, Current Information Questionnaire; DD Form 398, Statement of Personal History & Instructions; & DA 41, Work Sheet, also mailed with Order to Report for Induction, to the registrant.		
3–27–67	SSS 230 (Transfer for Induction received—mailed DD forms 47 & Hospital records to Transfer Bd. 61, Houston, Texas Mailed SSS 390 requesting above forms to be completed.		
5– 2–67	Papers returned from transfer Bd. 61, Houston, Texas. with letter attached showing that registrant refused to submit to Induction on April 28, 1967. The Kentucky State Director, Col. Taylor Davidson, determined that the registrant should be reported to the United States Attorney for prosecution.		
5– 2–67	SSS 301 (Delinquent Registrant Report) was mailed to the State Director for transmittal to U. S. Attorney		

[13]

February 14, 1966 Letter

[Original letter in Selective Service File is handwritten, Letterhead omitted.]

Re: Muhammad Ali
also known as Cassius Marsellus Clay
and Cassius X Clay.

Selective Service No. 15-47-42-127

Presently residing at 46-10 N.W.
15th Court, Miami, Florida

Former mailing address—(Permanent.)
7307 Verona Way, Louisville, Ky.

To: Chairman, Local Board No. 47
Louisville, Kentucky

Dated: February 14, 1966

Title: Change of Status Notice
Request for pre-reclassification Hearing

Gentlemen:

It is requested that you accept and consider the follow changes of fact relating to my Selective Service Classification submitted herewith supple-[524] menting and amending information heretofore filed with the local board.

1. My occupation is professional boxer and I am at present the Heavyweight Champion of the World. I won this title on February 25, 1964 and have defended the same on two occassions previously; and I am presently under contract to defend this title a third time on March 29, 1966 in the City of Chicago, State of Illinois. If successful on this defense I am deep in negotiations for a further defense in a foreign country, England, possibly in May of this year. A great interest has been claimed for this American

title to be defended in London, England, and possibly other European Countries. That my mail is heavy with invitations to fight or defend my title or just to appear in many African and Asiastic countries, my name being Muhammad Ali and I am not adverse to such invitations. There is only truly one world recognized Heavyweight Champion of the World and that is me. [525]

2. That on August 14, 1964 I was married and on January 11, 1966 a divorce decree was entered in my favor in the Circuit Court of Dade County, Florida, on the ground that my wife had failed to comply as per a pre-marital agreement with the tenets of my Muslim faith. The decree, however provides that I pay her alimony monthly in the sum of $1,250.00 for the period of 121 months subject to her remarriage or death, and that the sum of $50,000.00 in two installments be posted or secured this year to be applied from my last fight receipts and my next fight in March. This is an appealable decision. Time to appeal ends March 11, 1966.

3. That my mother is also a dependent and I have been and still am her sole source of support. Her name is Odessa L. Clay, of 7307 Verona Way, Louisville, Kentucky. [526]

3. That I am a devoit Muslim and a follower of the Islamic religious faith under the discipline of the Prophet Eligah Muhammad. To bear arms or kill is against my religion and I conscientiously object to any combat military service that involves the participation in any war in which the lives of human beings is taken. This I do not believe to be rightous. This has been my faith upward of 5 years.

In January and February or March of 1964, I was rejected on pre-induction tests and examination by the Armed

February 14, 1966 Letter

Forces. I states my position in this regard and on religious ground to the authorities testing me, the results of which test to the best of my knowledge being I was rejected by the Armed Forces authorities in Washington on the psycological basis that I was untrainable for military service. My condition has not been changed to my knowledge to the present time.

4. That contrary to published news reports and Army Releases of my previous physical examination I was in fact not completely examined physically.

5. That about November 13, 1964 I suffered an unexplained Inguinal hernia believed of a chronic nature for which I was operated on in Boston, Mass. [527]

6. That on December —— 1965, I was arrested in the City of Chicago and taken into police custody on a charge Disorderly Conduct the specifics of which I am not clear about. Bail was set and paid but I was and I believe I am now subject to criminal jepardy and required to return for trial in the City of Chicago, State of Illinois. The case to my last knowledge is set for jury trial sometime in March of 1965.

7. I did not receive and until I heard on the radio and read in the paper that I was in Selective Service Class 1-Y. I did not know what that meant until last February 11, 1966, when it was explained to me. I do not recall even before receiving a Form DD62 before the one I saw dated 26 Jan. 66 which I saw for the first time on Monday February 12, 1966. (This, however, may be due to an inefficient secretary whom I fired for misconduct in July, 1964, when I returned from my quest tour of a number of African States.) [528]

/s/ Muhammad Ali Slave Name Cassius M. Clay, Jr.

[517] **SSS Form 150**

Received 2-28-66

[Original form in Selective Service File is filled out in handwriting.]

SELECTIVE SERVICE SYSTEM

SPECIAL FORM FOR CONSCIENTIOUS OBJECTOR

[EMBLEM]

Selective Service
Local Board No. 47
Room 106, VA Bldg.
1405 W. Broadway
Louisville, Ky. 40203
(Local Board Stamp)

THIS FORM MUST BE RETURNED
ON OR BEFORE
Feb. 28, 1966
(Ten days after mailing or issue)

Date of mailing or issue Feb. 18, 1966

1. Name of Registrant:
   Clay Cassius Marsellus
2. Selective Service No.:
   15 47 42 127
3. Mailing address:
   46-10 N. W. 15 Court Miami, Florida

[INSTRUCTIONS OMITTED]

SERIES I.—CLAIM FOR EXEMPTION

INSTRUCTIONS.—The registrant must sign his name to either statement A or statement B in this series but not to both of them. The registrant should strike out the statement in this series which he does not sign.

(A) ~~I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form. I, therefore, claim exemption from combatant training and service in the Armed Forces.~~

.....
(Signature of registrant)

(B) I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form and I am further conscientiously opposed to

participation in noncombatant training and service in the Armed Forces. I, therefore, claim exemption from both combatant and noncombatant training and service in the Armed Forces.

Slave Name	Right Name
/s/ Cassius M. Clay, Jr.	/s/ Muhammad Ali

Under the provisions of section 6 (j) of the Universal Military Training and Service Act, as amended, any person who claims exemption from combatant training and service in the Armed Forces of the United States because he is, by reason of religious training and belief, conscientiously opposed to participation in war in any form and such claim is sustained by the local board, shall, if he is inducted into the Armed Forces, be assigned to noncombatant service as defined by the President, or shall, if found to be conscientiously opposed to participation in such noncombatant service, in lieu of induction, be ordered by his local board, subject to regulations prescribed by the President, to perform for a period of twenty-four consecutive months such civilian work contributing to the maintenance of the national health, safety, or interest as the local board deems appropriate, and any such person who fails or neglects to obey such order of the local board shall be subject to imprisonment for not more than five years or a fine of not more than $10,000, or to both such fine and imprisonment.

Series II.— Religious Training and Belief

Instructions.—Every item in this series must be completed. If more space is needed use extra sheets of paper.

1. Do you believe in a Supreme Being? ☒ Yes ☐ No

2. Describe the nature of your belief which is the basis of your claim made in Series I above, and state whether or not your belief in a Supreme Being involves duties which to you are superior to those arising from any human relation.

Muslim—meaning peace—total submission to will of Allah—Do not take lives of anyone; nor war when not ordered by Allah (God)—Keep up prayer and pay poor rates.

SSS Form 150

[518]

3. Explain how, when, and from whom or from what source you received the training and acquired the belief which is the basis for your claim made in Series I above.
From hearing Ministers of Islam in Miami, Fla.; reading the Holy Quan—(Muslim Bible) and teachings of Hon. Elijah Muhammad; Attend as often as possible in Miami, Fla. and Chicago, Ill.

4. Give the name and present address of the individual upon whom you rely most for religious guidance.
The Hon. Elijah Muhammad—4847 Woodlawn Ave. Chicago, Ill.

5. Under what circumstances, if any, do you believe in the use of force?
Only in sports and self defense

6. Describe the actions and behavior in your life which in your opinion most conspicuously demonstrate the consistency and depth of your religious convictions.
I divorced my wife whom I loved because she wouldn't conform to my Muslim faith. Gave up my Christian name and changed my name to Muhammad Ali, my religious name. Declined movie roles not consistent with my faith.

7. Have you ever given public expression, written or oral, to the views herein expressed as the basis for your claim made in Series I above? If so, specify when and where.
Yes. Many times on Radio, TV and everywhere

[Series III.—General Background OMITTED]

[519]

Series IV.—Participation in Organizations

Instructions.—Every item in this series must be completed. If more space is needed use extra sheets of paper.

1. Have you ever been a member of any military organization or establishment? If so state, the name and address of same and give reasons why you became a member.
No

2. Are you a member of a religious sect or organization? ☒ Yes ☐ No. If your reply to item 2 is "yes," complete items (*a*) through (*e*).

SSS Form 150

(*a*) State the name of the sect, and the name and location of its governing body or head if known to you.
Muhammad's Mosque No. 29. Miami Fla
" " " 2 Chicago Ill

(*b*) When, where, and how did you become a member of said sect or organization?
Jan 1964. Miami Fla, Confession of faith

(*c*) State the name and location of the church, congregation, or meeting where you customarily attend.
Miami Fla. 17th & 57th Ave
Chicago, Ill. 5335 Greenwood Ave.

(d) Give the name, title, and present address of the pastor or leader of such church, congregation, or meeting.
Hon Elijah Muhammad 4847 Woodlawn Ave. Chicago Ill Minister Lucius, Muhammad Mosque 29 Miami Fla

(*e*) Describe carefully the creed or official statements of said religious sect or organization in relation in participation in war.
Islam teaches Peace—Allah (God) forbids wars, except when Islam is attacked. Holy Quran.

3. Describe your relationships with and activities in all organizations with which you are or have been affiliated, other than military, political, or labor organizations.
Member, believer and Follower.
[520]

Series V.—References

Instructions.—This series must be completed. If more space is needed use extra sheets of paper.

Give here the names and other information indicated concerning persons who could supply information as to the sincerity of your professed convictions against participation in war.

Name	Full Address	Occupation or Position	Relationship to You
Odessa Clay	7307 Verona Way Louisville, Ky.		Mother
Elijah Muhammad	4847 Woodlawn Ave, Chicago, Ill.		Minister

SSS Form 150

REGISTRANT'S CERTIFICATE

INSTRUCTIONS.—Every registrant claiming to be a conscientious objector shall make this certificate. If the registrant cannot read, the items and his replies thereto shall be read to him by the person who assists him in completing this form. If the registrant is unable to sign his name he shall make his mark in the space provided for his signature in the presence of two persons who shall sign as witnesses.

NOTICE.—Imprisonment for not more than five years or a fine of not more than $10,000, or both such fine and imprisonment, is provided by law as a penalty for knowingly making or being a party to the making of any false statement or certificate regarding or bearing upon a classification. (Universal Military Training and Service Act, as amended).

I, Muhammad Ali, certify that I am the registrant named and described in the foregoing statements in this form; that I have read (or have had read to me) the statements made by and about me, and that each and every such statement is true and complete to the best of my knowledge, information and belief. The statements made by me in the foregoing is not in my own handwriting.

Registrant sign here → /s/ Muhammad Ali

Slave Name
Cassius M. Clay Jr
2-28-66

If another person has assisted the registrant in completing this form, such person shall sign the following statement:

I have assisted the registrant herein named in completing this form because He asked me to write this as he stated it to me.

/s/ Edward W. Jacko, Jr.
Attorney at Law
271 West 125th Street
New York, N. Y.

Record of Personal Appearance

[482]

M-40

Registrant: Cassius Marsellus Clay
SS Number: 15-47-42-127

RECORD OF PERSONAL APPEARANCE

1. Was written Request for Appearance filed? Yes
2. Date of Local Board Meeting: March 17, 1966
3. Names of board members present: Mr. J. Allan Sherman, Mr. M. M. Dilley, Mr. Robert Rickert & Mr. Frank Wolking
4. Names; Identification of parties appearing: Cassius Marsellus Clay
5. Requesting change in classification from 1-A to until
6. Was written information filed? Yes
7. Following is a concise summary of oral information as reported by parties appearing:

Requested appearance because he felt he had been incorrectly classified 1-A from 1-Y because he had previously failed his armed forces physical exam, and then without any order to be re-examined was classified 1-A. (Board Members advised that standards of Army had been lowered, his papers sent to examining station for review and found qualified.) Requested appearance and appeal based on above fact and, also, hardship. Hardship—taking care of

* Reverse side of sheet or additional sheet of plain paper may be used to complete summary, if needed.

Record of Personal Appearance

parents and payment of alimony to former wife. He is no longer Cassius Clay, since that was a slave name, but has taken the name of Muhammad Ali.

His religion teaches them not to take part in any way with infidels or any non-religious group. They fight only in self defense, not war. Boxing is considered his livelihood. They are taught to pray 5 times a day facing the East. They abstain from certain foods as lobster, shrimp, crab, pork, corn-bread and no liquor or smoking.

They are taught to respect only Civil laws, such as traffic.

Their religion or group has their own police force and no muslim may carry any lethal weapon. Mohamid is their leader.

Clay objects to being in service because he has no quarrel with the Viet Cong.

Clay stated that he could not, without being a hypocrit, take part in anything such as war or anything that is against the Moslim religion.

He still loves his former wife, but she would not conform with Moslim requests.

I certify that the information shown in Item 7 above was submitted verbally by the person(s) listed in Item 4.

This 21 day of March 1966.

/s/ M. Green
Clerk, Local Board No. 47

March 28, 1966 Letter

[Stamp]

[Original letter in Selective Service File is handwritten.]

Selective Service
Local Board No. 47
Room 106, VA Bldg.
1405 W. Broadway
Louisville, Ky. 40203

Rec 3-29-66

Toronto, Canada
March 28, 1966

Local Board No. 47
1405 Broadway
Louisville, Kentucky

Re: Appeal to Appeal Board
Selective Service Classification
No. 15-47-42-127.

Cassius M. Clay, Jr. a/k/a
Muhammad Ali

Present residence:
73-07 Verona Way
Louisville, Ky.

Gentlemen:

This is my appeal to the Appeal Board from the recent re-classification of myself from 1-Y to 1-A and affirmed on March 17, 1966, mailed to me on March 21, 1966,. The appeal is taken upon the entire file and from each and every decision failing to give sufficient weight to the facts stated in my letters dated February 14, 1966 [478] March 17, 1966 and my concientious objection based upon religious

training and belief statement and questionaire filed on February 28, 1966.

More specifically I submit on this appeal the following matters in which I believe the local board was in error:

1. That following my rejection from military service by the Secretary of the Army Stephen Ailes, who personally made the final decision to reject me for draft duty in April, 1964, purportedly based upon two written tests and the report of findings of time evaluated psychological studies of my case, I was re-classified by the Local Board 1-Y. No subsequent testing of me occurred. On February 17, 1966, my classification from 1-Y to 1-A was directed by the Local Board, with knowledge of the facts that: (a) 29 F.R. 155561, dated November 20, 1964, provided that 1-Y registrants be such as, ". . . not eligible for a lower class. . . . *found* under applicable physical, mental and [479] moral standards to be not *currently* qualified for service in the Armed forces. . . ." [italics added]. On November 13, 1964, I was examined for and underwent surgery at Boston City Hospital for a congenital right inguinal incarcerated hernia which had descended into the scrotum, a disqualifying defect for service in the armed forces; and a defect for which a lower classification was warrented lower than Class 1-Y., possibly IV-F. However, without any individual review of my case at the level of my prior rejection, or other manner of "current qualification" testing for service in the Armed Forces, I was summarily and arbitrarily transferred to Class 1-A, ostensibly to satisfy a pressure clamor aimed at certain athletes who were still working their professions in private life; and as (b) as stated in my letter of March 17, 1966, the pre-emption of this re-classification form 1-Y to 1-A was contrary to 29 F.R. 15561, where as a class 1-Y registrant

March 28, 1966 Letter.

I would not [480] and should not has been "qualified for such service" . . . only ". . . in time of war or national emergency declared by Congress." No war or national emergency having been declared by the Congress to date, it is submitted that my re-classification to 1-A is therefore illegal and unconstitutional.

2. As pointed out in my conscientious objection statement my religious beliefs decree that I not serve in any military purpose to promote war. I reaffirm my stand thereon as my prior duty to Allah (God) the Supreme being over all.

3. My divorce and the property settlement decreed therein was based on a settlement agreement for $151,250.00 which I am and will be bound to pay. This is true despite Soldiers & Sailors Civil Relief Act, where the amount was predicated on my 1965 earnings and a deferred draft classification. My mother is also my dependent.

Yours truly,

/s/ Muhammad Ali (Slave Name Cassius M. Clay, Jr.)

[481]

Transcript of Special Hearing

[268]

[References in brackets in transcript are to pages of the original Selective Service File]

LOUISVILLE, KENTUCKY

SPECIAL HEARING

IN RE:

Selective Service Classification of:
Cassius M. Clay, Jr., a/k/a
Muhammad Ali.,
S. S. No. 15-47-42-127

BEFORE:

HONORABLE LAWRENCE GRAUMAN

August 23, 1966

The above-styled matter, coming on for Hearing, before the Honorable Lawrence Grauman, on Tuesday, August 23, 1966, at about the hour of 2:00 P. M., in the United States District Courtroom No. 2, Sixth & Broadway Streets, Louisville, Jefferson County, Kentucky, the following proceedings were had and done, to-wit:

Judge Grauman: Now, Mr. Covington, in the directions given to me, as Hearing Officer, I note that should the public or press indicate a desire to attend any Conscientious Objector Hearing scheduled by the Hearing Officer, the Hearing Officer is requested to [269] ascertain from the Registrant, or his counsel, whether the Registrant has any objections to the presence of the press or public during the proceedings and if the Registrant has any objections, the Hearing Officer should request him to state such objections in writing and, in such event, the press and public

should be excluded from the Hearing or, if the Registrant fails or refuses to state the objections in writing, a notation that he objects shall be made in his presence in the record of the proceedings and the press and public shall be excluded.

So, I would respectfully request of you and the Registrant to please state whether or not there is an objection to the public hearing and if there is, will you please sign a writing and the Hearing will be private.

Mr. Covington: Your Honor, I have discussed this matter with the Registrant, Muhammad Ali, Mr. Clay, and it is our opinion and desire not to make it public and he is ready and willing to sign the necessary written statement to that effect. I am preparing it at this moment.

Judge Grauman: All right; please file it with the Reporter.

(At this point the aforesaid document was received by the Reporter.)

[270] Judge Grauman: Whenever you are ready, Mr. Covington. Now, I would like to apply the rule for the separation of any witnesses.

Mr. Covington: That is understandable and satisfactory, Your Honor.

Judge Grauman: All right, sir. Any witnesses other than Mr. Clay who are going to testify will be conducted by the marshal to the witness room.

Mr. Covington: Your Honor, we are going to put on a member of the Bar first.

Judge Grauman: Yes, sir; and then call the other witnesses. Now, of course, after they testify, Mr. Covington, they may stay in the courtroom.

Mr. Covington: Yes, Your Honor. We will put Mr. Eskridge on first.

Chauncey Eskridge—for Registrant—Direct

[271] MR. CHAUNCEY ESKRIDGE, called as a witness by the Registrant, was examined and testified as follows, to-wit:

By Mr. Covington:

Q. Mr. Eskridge, would you please tell His Honor, Judge Grauman, your address, your residence address and your business address, your occupation— A. I live at 6416 South Park Avenue, Chicago, Illinois, and I am an attorney at law, licensed to practice in the State of Illinois.

My office address is 123 West Madison Street, Chicago, Illinois.

Q. And you are a member of the Bar and for how long have you been so? A. Since 1950.

Q. And in what field of law, if any, do you specialize? A. The field of Federal Taxation.

Q. Do you know the Registrant, Muhammad Ali, also known as Cassius Clay, Jr.? A. I do.

Q. How long have you known him, sir? A. Since August, 1964.

Q. And what was the occasion of your becoming [272] acquainted with him? A. I was at that time retained by him to be his legal advisor in tax matters.

Q. Now, what has been the nature of your association and the extent of it since that time to date? I ask this for the purpose of showing, Judge Grauman, what if any, basis you have for the statements of opinion and other matters related to his claim. A. Prior to the time I met the Registrant I had been doing legal advice—giving legal advice and tax advice to the Honorable Elijah Muhammad so that I was familiar with the Honorable Elijah Muhammad since about 1950.

Q. Who is the Honorable Elijah Muhammad? A. He is the leader of Muhammad'd Mosque.

Q. And that is otherwise known as the Nation of Islam? A. It is.

Q. And what connection, if any, does the Registrant have with that organization? A. He is a member, first missionary, and he is a minister.

Q. Right.

Judge Grauman: You say he is a [273] minister?

The Witness: Minister.

Q. Minister of the organization? A. Yes.

Judge Grauman: (Spelling) M-I-N-I-S-T-E-R?

The Witness: Yes.

Judge Grauman: Would you mind telling me what a minister of the organization—what position that is, please?

The Witness: Within the Nation of Islam?

Judge Grauman: Yes, sir.

The Witness: A minister addresses congregations; he meets with groups; he seeks converts.

Q. Now, would you please relate to the Judge in your own words, the history of your acquaintance with him in this respect as a member of the Nation of Islam? A. I—when I met him in August, 1964, he had recently become active in the—the Nation, whereupon, it was my job as a tax consultant with him, to stay as close to him as possible to manage and advise as to his financial affairs.

As a result, I have had quite close contact with [274] him.

Q. Now, incidentally, are you a member of the Nation of Islam faith? A. I am not.

Q. You have been rendering professional services only and attending to business matters and that is the extent of your association, is it not? A. No, that is not.

Q. No, it isn't? Now, what additional association have you had with the Registrant? A. I have had occasion, many times, to go to temple with him. Prior to my having met him I attended temple at—at various temples around the country. I have been with him when he engages in what is called "Fishing".

That is an engagement whereupon the Registrant goes on the street and especially on Sunday mornings and he seeks to find people along the street whom he seeks to induce to go to temple with him that day.

Q. Now, in addition to that, you have also had association with him as his tax consultant, have you not, Mr. Eskridge? A. I have.

Q. Now, has Muhammad Ali ever had occasion to express his opinions or his scruples or objections, if [275] any, in respect to the participation in combat, or non-combatant service in the Armed Forces? A. He has.

Q. And could you give us any of the substance about that, or substance of a statement of what he has— A. (Interrupting) The first time the subject arose between the Registrant and myself was in Chicago on a day he had been invited back to Chicago by the Illinois Boxing Commission where they wished to hear his views, and this was the first time that the two of us had this conversation.

His conversation arose about the fact that he knew that I was an inactive military officer and he was—

Q. (Interrupting) What service are you attached to in the reserves? A. I am a Lieutenant-Colonel in the Stand-by Reserves, United States Army.

Q. Yes. A. And he said to me what would I think if

he should choose to enter the penitentiary rather than accept military service, and my answer to him was that, "If conscience requires that you do this, then I am with you."

Q. Now, based on the discussions and the [276] knowledge that you have of the Registrant, Muhammad Ali, could you give Judge Grauman any opinion as to the bona fides of his objections and whether they are—whether they extend to the performance of combatant or non-combatant military service? A. The clearest example of his bona fides interest in his religion is evidenced by the cleavage that resulted between himself and his spouse which ripened into a divorce in January, 1965.

The cleavage resulted because of his insistence on his spouse—that she follow the dictates of Islam. So insistent was he that she follow these tenants that he was willing to give her up by way of divorce and to pay the alimony which was entered by agreement in order that he may be able to live an example and that anyone around him be an example of what he believes in.

That would be my first impression of the bona fides of his believe—his beliefs.

Secondly, I have noted that a man who has earned as much money as he has since winning the title in January, 1964, where the natural attractions of persons who have access to money which we, in America, believe to be the successful use of money—to the Registrant, the use of money in the temptation to use it to show success in [277] monetary means has been refused by him. He does not cherish the use of money for the purpose of displaying wealth.

He has an humbleness which, though he is the Champion, and the Champion is required to stand in a fashion and a posture that would make him look like a champion, yet he has an humbleness that makes him different.

He has the trait and characteristics of a man who can encourage persons whom he seeks to induce his religious belief—he has that capacity so to do.

I have always noticed that the Registrant has refused to eat the types of food that persons—that he could afford, the entertainment that he could afford; this he has refused to do.

Q. Thank you. Now, could you elaborate on, if you know, specifically about the opportunities that he had which he turned down to make money on contracts, such as records, recordings, or in the movies, and other endorsements of other products and other things that he turned down on account of his faith? A. In the early part of—let me say it this way: soon after having won the first fight against Liston in January, 1964, there were opportunities offered to him at that time to make endorsements of commercial— [278] commercial endorsements of products which are sold on the market, and at that time he was asked, because the rumor had just started, "Are you a member of the Nation of Islam?", and his answer was, "What difference does it make? Does it mean that you will not ask my endorsement if I am a member of the Nation of Islam?", and the answer was in the affirmative and he refused to disavow his membership in the Nation.

Q. Now, specifically, have you ever seen Muhammad Ali do any of what is called "Fishing" work as a part of his evangelistic ministerial activity not for the purpose of showing that he is a minister, but establish his good faith as a conscientious objective? A. Many occasions; I know of several occasions, and recently where he has been working with a teen-age gang—groups, in Chicago; this I know of.

I know, and I have been with him as he went along the street and sought members to go with him on Sunday. This—I have been with him in Miami when he has done this and in Chicago and in New York.

Q. Have you ever been around him when he has been attempting to do anything in respect to diminishing or retarding juvenile delinquency, and tell what, if anything, he has done in that respect as a part of his religion? [279] A. As a part of his religion, I've seen him meet with the organization known in the Nation as the Fruit of Islam. The Fruit of Islam are the young members of the followers of the Honorable Elijah Muhammad, and in the Fruit of Islam there is an encouragement to maintain physical fitness, and he lends himself in these groups of the Fruit of Islam around the country.

He goes and he encourages and demonstrates and engages in the physical activities that are going on to encourage the Fruit of Islam to maintain their physical fitness.

I might add, however, and in addition, that to become a member of the Nation of Islam requires a very strict code of conduct. The code of conduct requires that a man always look that—as if he—he's sure of himself; that is to say, he is clean; his shirt is white; his tie is dark maroon, or dark blue; he is clean-shaven; his hair is cut close; his language is circumscribed; his conduct is circumscribed; he does not eat deleterous foods which have pork products in them; he doesn't engage in the drinking of alcohol or the taking of nicotine; and to the women, they do not wear cosmetics.

Q. Could you say that the claim of the Registrant has been made to the Draft Board in good faith? [280] A. It is, in my opinion, made in good faith.

Samuel X. Saxon—for Registrant—Direct

Mr. Covington: I believe that is all. That is all from this witness, Your Honor.

Judge Grauman: Call your next.

Mr. Covington: May Mr. Eskridge remain in the courtroom now?

Judge Grauman: Yes, he may remain; yes, sir.

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[281] Mr. Samuel X. Saxon, called as a witness, by the Registrant, was examined and testified as follows, to-wit:

By Mr. Covington:

Mr. Covington: Your Honor, this witness does not swear, but affirms.

Judge Grauman: Well, I think under the regulations the procedure is very informal; witnesses are not sworn.

Mr. Covington: Fine, Your Honor; thank you.

Judge Grauman: Now, let us make sure. These are the instructions to the Hearing Officer. The Hearing, contemplated under the Act, was to be in the nature of an administrative proceeding and shall be informal, non-technical and flexible. Care should be exercised to avoid any resemblance to a judicial proceeding or a prosecutive action and in no sense shall the Registrant be deemed to be on trial. The ordinary rules of evidence shall not apply. The Hearing Officer is not authorized to subpoena witnesses or to administer oaths.

Mr. Covington: That's right.

Judge Grauman: Consequently, the testimony of voluntary witnesses will not be sworn.

[282] Mr. Covington: Fine; thank you, sir.

Judge Grauman: Yes, sir. Now, may I have—you are Samuel X. Saxon. Is that this gentleman's full name?

The Witness: Yes, sir.

By Mr. Covington:

Q. Now, Mr. Saxon, would you please tell His Honor, Judge Grauman, your full name—well, I mean, you've already given that. I mean your age and your residence address and business address and your occupation? A. Your Honor, I am—my name is—

Q. (Interrupting) Please talk a little louder, Mr. Saxon. A. My name is Samuel X. Saxon. I am Assistant Minister and Captain of Muhammad's Mosque No. 29, in Miami, Florida, and my age is thirty-four years old, and I am the distributing manager of the Muhammad Speaks newspaper in Miami, Florida. I'm the circulation manager.

Q. Now, I'll ask you whether or not you know the Registrant, Muhammad Ali, also known as Cassius Clay? A. Yes, sir; I know him.

Q. And for how long, or what period of time [283] have you been acquainted with the gentleman? A. I met Muhammad Ali early part of 1961, to know him as a person.

Q. Now, tell the Judge the circumstances? A. Judge, on the circumstances, I met Muhammad Ali I was walking up Second Avenue in Miami selling our Muhammad Speaks Newspaper and by him seeing me selling the Muhammad Speaks Newspaper, he heard the teachings of the Honorable Elijah Mumammad in the past and he came over and we went to talking about the teachings of Honorable Elijah Muhammad and then he carried me to his room to show me how he had won the A.A.U. Championship,

the Golden Gloves—not the Golden Gloves,. and the Olympic there, and I told him at that time that I had been keeping up with him in the Olympics games, and we had so much in common at that time.

So, after meeting him at this time I invites him to the Mosque and he come to the Mosque and he listened to the teachings and he was so enthused over the teachings 'till he used to just talk it all the time, up and down the avenues, and I used to try to stop him at that time because he wasn't in the fold with us at that time, and so this went on for years and years and I encouraged him to attend more and he did.

[284] Eventually, he got to be a full-fledged member of the teachings of the Honorable Elijah Muhammad.

Q. And do you know anything about his opinions or statements of opinions as to the performance of combatant or non-combatant military service? A. Repeat that, please, sir?

Q. Do you know anything about—that is to say, have you ever heard him say anything about his objections to serving in the Army either combat, or non-combatant? A. Yes, sir. Well, he believes as I believe. I mean, from me and him talking with one another, he believes as I believe, that he shouldn't take no part in war.

Q. And are you familiar with the teachings of the Honorable Elijah Muhammad, a part of the Nation of Islam, in respect to the performance of military service? A. Yes, sir.

Q. And could you tell His Honor, Judge Gráuman, the substance or the essence of those objections? A. Yes, sir; Your Honor, we are taught and we believe that us being righteous people, and trying to do the divine will of

Almighty God, that we believe we shouldn't take part in wars or participate in them.

[285] Q. And is this one of the main, of fundamental teachings of the group of the Nation of Islam? A. Yes, sir; this is the teachings of the Honorable Elijah Muhammad. He have it on the back page.

Q. You have mentioned the newspaper Muhammad Speaks. Would you show—would you hand that to me? A. Yes, sir.

Q. I would like, if I may, if it please Your Honor, to hand it to you and ask that it be considered as—especially the back page, and that it be received, Your Honor.

Judge Grauman: Yes, sir; we will let it be filed as a part of the record.

Mr. Covington: For what it may be worth; yes, sir.

Judge Grauman: Yes.

Q. Now, that newspaper, Muhammad Speaks, you say you have distributed on the streets and that you were distributing it when you first got acquainted with Muhammad Ali? A. Yes, sir.

Q. Now, have you ever seen Muhammad Ali engage in the distribution of this paper? [286] A. Yes, sir; he—he distribute those too at times, in different cities.

Q. And have you ever heard Muhammad Ali engage in what is known as "Fishing"? A. Oh, yes.

Q. And explain to the Judge what that means? A. Judge, Your Honor, "Fishing" means that one who believe in the teachings of the Honorable Elijah Muhammad and religion of Islams, he's so enthused over it 'till he will go out in the street and try to get other people to believe

as he believe because he sees the benefits that he's getting from believing in the teachings.

So, "Fishing" is when one have this type of understanding and he will go out and tell people about what he have learned of himself, which, in the past, he don't know himself, and this give the man the enthusiasm to go out and "fish" the people to the teachings of the Honorable Elijah Muhammad so they can try to understand as he understands and Muhammad Ali is one of the greatest "Fishermens" we have.

Q. And in this part of the "Fishing" work the end result of it, is it not, is to bring them, the interested persons to the meeting places? [287] A. Yes, sir; this is—this is the purpose of it.

Q. Yes, sir. A. And the—to teach them knowledge of themselves, and one who does this is called field ministers, ones that will be out and do this to the extent where he's not afraid or not ashamed to do this.

Q. Is Muhammad Ali a field minister engaged in this work? A. Yes, sir; yes, sir; he would qualify as a field minister, because—

Q. And does he do it regularly and customarily? A. Oh, yes, sir; he do. He does it quite often, sir.

Q. And have you heard him or seen him make any talks or give speeches in the mosques? A. We have him every time he's in Miami; we have him to teach our people; teach what he have learnt and the benefits that he have received from believing in the teachings of the Honorable Elijah Muhammad. He does this all the time.

Q. Now, before I get to some other matters that relate to other things I would like to ask you whether [288] or not, in your opinion, the objections of Muhammad Ali are conscientious against the performance of military service? A. Do I believe what, sir?

Q. Do you believe that his objections are conscientious and honest? A. Yes, sir.

Q. And are they based on the teachings of the Honorable Elijah Muhammad? A. Yes, sir; his understanding of his teachings.

Q. And I have shown you the resume of the Inquiry of the F.B.I. that was—a copy of which was mailed to Muhammad Ali, and I would like to direct your attention to a statement that occurs on page twenty-two, or rather, twenty-one:

> "He recalled that when he saw a press report that the Registrant had purchased a gun, he went to the Registrant and the Registrant explained that he purchased it more or less as a toy."

Were you the person, or gentleman that made that report to the F.B.I.? A. Yes, sir.

[289] Q. Well, please explain to Judge Grauman the circumstances, and tell him the reason why—what you found out as a result of your conversation with Muhammad Ali as to the reason he got it and then what was done? A. Judge, Your Honor, I was at home looking at the six o'clock news and I heard over the sports news that Muhammad Ali had purchased a pistol from a Local Pawn Shop, and as I heard this, I rushed over to his house and asked him, you know, why he would do a thing like that and he said, "I just bought it for a toy, to play with it. I bought some blank cartridges. I just like to have a little fun with it," and then at that time, me being a Captain of the Mosque, I had to tell him that we didn't encourage—we didn't even carry firearms period, and we didn't even have them in our homes because we believe in peace.

Our everyday greetings with one another is. "Peace", and religion name is "Peace", and I explained these things

to him and then I taken the gun from him and I threw it in the Atlantic Ocean in Miami, Florida.

Q. What kind of a gun was it? A. Oh, it was a little twenty—a little derringer, like, you know; a one-shot that's what it was, a one-shot.

Q. Was it—could you demonstrate the size [290] of it? A. Oh, it was about like this (indicating) a one-shot; break it over—break it over forward and put one shot in it.

Q. And did he resist that, or what? A. No, sir; after—after I told him these things he gave it to me without any opposition.

Q. Now, I direct your attention to what appears on page twenty-two of that report and first, I'd like to ask whether you are familiar with all of the teachings of the Nation of Islam; I mean, all of the basic teachings? A. Yes, sir; I am.

Q. Of the Nation of Islam; and before I move into that subject, you have mentioned that you were a Captain and I would like to have you explain to His Honor, Judge Grauman, what is meant by a "Captain"? A. Judge, Your Honor, a Captain in a Mosque is one who enforce the rules and the law of the Mosque and say, like, if we have rules and regulations that we go by, being on time, doing our duties of a righteous man and I am to see that these things are carried out, and like people gets lax in attending, I'm the man that go—go to them and find out what their trouble is; if they're sick, or is [291] they hurt, or is they hungry, or out of work and I'm to encourage them to get jobs when they are out of work and to not to be a beggar, and not to, you know, look for some relief to take care of them.

I'm the man that goes to them to encourage them to get up and do things for themselves and this is a part of my

duties as a Captain, to help them if they need help and to try to keep them encouraged and to stand strong and righteous and be righteous people.

Q. Now then, since you are familiar with the basic teachings of the Nation of Islam I would direct you to what appears in the Resume of Inquiry on page twenty-two, a xerox copy of which I have handed you where it appears that:

"Members owe no allegiance to the United States."

A. That's an untrue statement, sir.

Q. Is that a part of the teaching of the Nation of Islam? A. We—we do hold allegiance to the United States. We pay taxes. We obey all of the laws of the land. I think that's allegiance. We don't break no laws of the land. In fact, we are dismissed when we break laws of the land and I think that fits under the category [292] of allegiance.

Q. Now, is there anything in any of the publications of that Nation of Islam that makes such a statement, or advocates such a doctrine of "owe no allegiance to the United States"? A. No, sir; we don't teach this, period.

Q. All right. Now then, going farther down that paragraph it says:

> "Concerning the Fruit of Islam, it is characterized as a group within the Nation of Islam composed of male members of the Nation of Islam and the purpose of the Fruit of Islam is to protect officials and property of the Nation of Islam, assure compliance with what is then a part of the teachings of the Nation of Islam and to prepare for the War of Armageddon."

Does that mean, or is it a part of the doctrine that the Fruit of the Nation of Islam take any overt act, or any

acts to arm to prepare for the Battle of Armageddon? A. No, sir.

Q. Just what does that mean, "what is then a part of the teachings of the Nation of Islam"? [293] A. To the Fruit of Islam that means that all scriptures that we have been taught out of the Bible and the Holy Qur'an that the final war will be the War of Armageddon, and the Fruit of Islam is taught to prepare for the War of Armageddon of being on the right side of God which is righteousness.

We are preparing for that and we do take military training, drill, judo, because we do protect our property and officials of—ministers—we protect our ministers; we protect the Honorable Elijah Muhammad and we don't have no arms, no guns and no knives, no bayonettes, and to do this, we practice military training, judo, wrestling and karate.

Q. And you have no weapons of warfare then? A. No, sir.

Q. But what are the teachings of the Nation of Islam then in respect to self defense? Do you believe in self defense? A. Yes, sir.

Q. And do you believe in the War of Armageddon? A. Yes, sir; we certainly believe in it.

Q. Is that a war that the Nation of Islam will fight, or is it a war that someone else will fight? [294] A. No, sir; the—the Nation of Islam would not fight the War of Armageddon. We believe that God and the devil will fight this war and God need no help from me to fight this war. He just wants me to be righteous, from my understanding.

Q. Now, it says that the Fruit of Islam is governed by a military system wherein the members are controlled by general orders similar to those issued by regular military organizations. I ask you whether or not this is not true.

of most all religious organizations, that they refer to them as christian soldiers and use military terms? A. Yes, sir.

Q. Now, on page twenty-seven of the Resume of Inquiry, at the bottom of the page, there is a quotation from the Louisville Times, dated February 19, 1966, which refers to page 135 of the book, The Eternal Message of Muhammed, and I'll ask you whether or not that quotation is a quotation from the Honorable Elijah Mahammad, who is the leader of the Nation of Islam, or is it a quotation from some other person named Mohammed? A. Sir, this quotation is not of the Honorable Elijah Muhammad; this is not.

Q. Well now, what is it? [295] A. This is a quotation of someone who wrote a book on Mohammed of fourteen hundred years ago and if—maybe I should read it.

Q. Yes, I wish you would. A. So the Judge could understand what I'm talking about. It reads as follows:

> "The Message of Mohammed; considers warfare admissible and a virtue when undertaken to repel aggression against the weak, be it against an individual, or a group, in the interest of erecting the edifice of justice desired by God on earth. The prophet devoted himself to the repulsion of tyranny as did his successors, inasmuch as he commanded the authority of the Islamic policy to get the aggressors and avert tyranny. It followed therefore, that an Islamic State may ally itself with one or more states to defend a victim."

which this statement itself proves that this is not the Honorable Elijah Muhammad's words, because this is Islamic policies and his successors did this and Muhammad—the Muhammad we are following today do not have successors. He is here now.

Q. Is this not a writing by a former head [296] of an Islamic Nation or State? A. This is the writing of Mohammed of fourteen hundred years ago which—who had a State and which—who had an army and these were his words. These are not the words of the Honorable Elijah Muhammad.

Q. Have these words ever been adopted by the Nation of Islam as a part of their beliefs? A. No, sir.

Q. Then that has no relationship whatever to the beliefs of the Nation of Islam or the beliefs of Muhammad Ali in this case, does it? A. No, sir; because what Mohammed of Fourteen hundred years brought to their people, it couldn't fit us today because we are Fourteen hundred years away from that and what he taught his people, it's no use of us today and we—we don't follow this at all here.

Q. Well now, what do you folks—what book do you follow? What books for publication, if any, do you follow as a basis for the belief that the Nation of Islam have, or the objections that Muhammad Ali has expressed in his papers filed with the Draft Board and which you have expressed to Judge Grauman here? A. I think we could find them in the Holy Qur'an and this book we've got here, Message to the Blackman, [297] written by Honorable Elijah Muhammad.

Q. May I see them please? A. Yes. I think—

Q. (Interrupting) You have handed me a book entitled Message to the Blackman, in American, by Elijah Muhammad, and another book entitled The Holy Qur'an, English translation.

Now, are these two books on which—are these the two books on which the faith of the Nation of Islam in the United States is based? A. Yes, sir; this is what we follow, sir.

Q. Is that— A. Yes, sir.

Mr. Covington: May it please Your Honor, I'd like to offer the book entitled Message to the Blackman in America as one exhibit and the Second one, The Holy Qur'an—

Judge Grauman: (Interrupting) Who is the second one by?

Mr. Covington: It is by—may it please the Court, I will read—

The Witness: Maulana Muhammad Ali.

Judge Grauman: Is he living now?

Mr. Covington: Yes, the—

[298] The Witness: (Interrupting) Your Honor, the Honorable Elijah Muhammad, as we people who are strayed away from Islam for over four hundred years, he recommended this edition to us to study out of, more so than any other book—he recommend this to us.

Q. That's the Honorable Elijah Muhammad, now who— A. (Interrupting) Yes, sir.

Q. (Continuing)—recommended this as the basis for study? A. Yes, sir.

Mr. Covington: Now, Your Honor, I am reading from the publication leaf of the book, which is entitled The Holy Qur'an, Arabic Text, English Translation and Commentary, by Maulana Muhammad Ali, Fifth Edition, and published in Lahore, Pakistan, and this edition, the Fifth Edition, is 1963, and I offer each—offer the book.

Judge Grauman: All right.

Q. Now, does the Nation of Islam base any of its teachings upon the doctrine as stated in this paragraph at the bottom of page twenty-seven? A. No, sir.

Q. Of the Resume? A. No, sir.

[299] Q. And is that a part of the beliefs of the Nation of Islam in the United States? A. No, sir.

Q. Is that rejected? A. This is rejected. See, we don't have no state to defend; that's why it have to be rejected.

Q. Explain to the Judge why it is that the Muslims believe in the right of self defense and not in war; is there a difference, participation in war and— A. (Interrupting) Yes, sir; the self defense, Your Honor, we don't believe in war, and self defense, we believe that if we are attacked, or fight is forced on us, then we will defend ourselves because we believe we have no life after death so we must protect and defend ourselves so we can keep on living.

We, if you note, that a Muslim never take part in a demonstration in the street whereas fighting and killing is going on. So, we are peaceful people and we keep ourselves away from these things. I think that's a good difference between war and war is when you voluntarily fighting someone, and defend—when you are defending, you are defending your life, your home, your family.

Q. Now that you have mentioned about demonstrations in the street, there has been a lot of [300] publicity in the newspapers about this and what is the position of the Nation of Islam in respect to these public demonstrations that have drawn so much attention to the Nation? A. Your Honor; we are taught to not take no parts in—whether white and black are fighting one another—we are not to take any part in these things. We are to stay home and stay away from these things. This is what we are taught;

to not take any part in no forceing of ourselves on someone or taking part in any fight, and street fights, bottle throwing, gas throwing, we don't take no part in these types of things and we are instructed—I am instructed to tell the followers in Miami not to take part in them and stay home, stay in the house and so we are—we are seeking peace.

Q. Now, at one or two points in this Resume, reference is made to Muhammad Ali having adopted a religion of hate. I will ask you whether or not the religion of the Black Muslims, as they are commonly called in the public and press, or the Nation of Islam, as it refers to itself, believes in hate? A. No, we don't.

Q. Or practices hate? A. We don't practice no hate, sir.

[301] Q. Well, explain now to Judge Grauman the basic doctrine that the organization has on segregation? A. Segregation, we don't like segregation and we don't like—we are not in love with integration. We are trying to be a group of people that want to do something and stand on our own feet and produce for our nation of people just like your nation have produced for your people.

This is our teaching; to do something for yourself, be yourself, your own, accept your own. These are our teachings. This is why we take no part in demonstrations. We want something for ourselves and we want to be men to do it for ourselves and protect our women and children and not be segregated. That's a—my understanding—that's something that's forced on people. Those are some of our views on it.

Q. And do you believe in forced integration? A. No, sir; we believe that if the hotel will let me stay downtown that it's a good hotel. I've got the money to do this, to go in there, I go in there, but if the hotel man downtown say, "No, you can't come in here; you a negro, a black man,"

I said, "Thank you, sir," and I'll go back and go to some hotel we can go to. This is what we are teaching. This is what we believe.

[302] Mr. Covington: I believe that is all, Your Honor.

Judge Grauman: Are you Samuel Christopher Saxon?

The Witness: Yes, sir; that was my middle name. I never use that, sir.

Q. Would you explain to the Judge why it is that the organization of Islam, the Nation of Islam, use these different names, because the Judge has brought that up. Now, so that he will not have to guess at it, you explain it to him. A. Yes, sir. Well, Judge, Your Honor, when we say Samuel X. Saxon, well, Saxon was the name of my slave master that had my people hundreds of years ago and this name was passed down to me as I was birthed in the world and after I learned a knowledge myself that I'm wearing someone's name, so, we use the "X" to nullify the Saxon, but since we got to be identified as something, so we say Samuel X. Saxon, and the "X" let the world know that I'm no longer Saxon.

Judge Grauman: What is your legal name?

The Witness: My legal name?

Judge Grauman: Yes, sir.

[303] Judge Grauman: Are your also known as Samuel Shabazz?

The Witness: Samuel Shabazz; this is my Islamic name, Shabazz.

Q. Explain the meaning of Shabazz? A. Shabazz mean the first tribe or people that was on the Planet Earth. Shabazz is the God's tribe of people on the Planet Earth. We believe that Almighty God—Allah belonged to this tribe.

Judge Grauman: When did you first become associated with the Muslims?

The Witness: Back about ten year ago, sir.

Judge Grauman: What was your occupation before then?

The Witness: I was working in a machine shop in Los Angeles.

Judge Grauman: Now, when did you say you first met Mr. Clay, the Registrant?

The Witness: I—the early part of '60-'61, sir.

Judge Grauman: Where did you meet him?

The Witness: In Miami, Florida, [304] sir, around Second Avenue.

Judge Grauman: Did you prior to that time, meet him in Chicago when the Registrant came up to the Muslim Headquarters?

The Witness: Well, sir, at that time I met him in a by-way, not where we really got acquainted, sir. It was just a pass-through and we—we really didn't get acquainted at that time.

Judge Grauman: In Chicago?

The Witness: Yes, sir.

Judge Grauman: Do you remember the first occasion when you saw him in Chicago?

The Witness: Well, I remember him coming by, coming from the room, and he had heard so much of the teachings of the Honorable Elijah Muhammad that he wanted to come by and see the works of the

Honorable Elijah Muhammad and see the school and that's the time I saw him.

Judge Grauman: That was before you were assigned to Miami?

The Witness: Yes, sir.

Judge Grauman: Now, can you give us the names of any people who have been influenced by the Registrant when the Registrant has gone on these "Fishing" [305] expeditions?

The Witness: Could I do what, sir?

Judge Grauman: Can you give us the names of any of the people—you say the Registrant has been one of the most active persons going out on these "Fishing" expeditions?

The Witness: Yes, sir.

Judge Grauman: Can you give us the names of any of the people that he has gotten to join the Muslims?

The Witness: Yes, sir; I can give you names. I know a brother in Miami, named Eddie 2X. I have to find his slave name out because we just about forgot about slave names, you know, after a while, so, Eddie 2X and a brother named Robert 5X, in Miami, another one named Robert 4X—all these are members now.

Judge Grauman: But you can't give us their legal names?

The Witness: Well, sir, I have to go back and check records, because, as I say, we—

Q. Would you be willing to check records? A. Yes, sir.

Q. And then write a letter in to Judge Grauman? [306]

A. Yes, sir, Judge, Your Honor.

Judge Grauman: Now, you say that he is a field minister who devotes considerable time to these fishing expeditions?

The Witness: That's all he do, sir, when he's not training or fighting; it's all he do.

Judge Grauman: How many people would you say all told, through the efforts of the Registrant Clay have been influenced to become Muslims?

The Witness: Well, I only can speak for Miami, sir, and I think that in Miami that he have at least twenty people in our Mosque that he was influential in bringing in our Mosque.

Judge Grauman: If I understand, he just went out on the street and didn't know these people?

The Witness: Talked to them, yes.

Judge Grauman: He talked to them and influenced them to become members of the Mosque?

The Witness: And throughout the country the number is much greater than that, I know.

Judge Grauman: Now, I noticed in this Resume referred to by Mr. Covington, there is a statement that the purpose of the Fruit of Islam, among other things, is to prepare for the War of Armageddon. What do [307] you—what are you and the other members going to do when this war comes?

The Witness: Sir, just be right and try to be on the side of God.

Judge Grauman: Well, are you going to fight?

The Witness: No physical fight, no, sir.

Judge Grauman: What kind of preparations are you making? Are you making or taking military training for the war?

The Witness: Well, sir, as I explained, why, we take training and exercises to protect our mosques, our meeting places, our religion, our meeting places throughout the country. We don't bear no arms, so we have to be in some type of physical condition to protect our mosques.

Judge Grauman: Well, this statement about preparing for the War of Armageddon; if you are preparing, aren't you preparing to participate in the war?

The Witness: No, sir; we are not. We only preparing to be righteous and be on God's side, for him to have mercy on us.

Judge Grauman: Well, what part is [308] that going to be in the war?

The Witness: Well, this—we are not going to take no part in the war. God going to fight the war.

Judge Grauman: Then, if I understand correctly, this statement in the Resume of the F.B.I. is wrong?

The Witness: Yes, sir; if he thinks we are going to take part in a war.

Judge Grauman: Now, not about thinking you are going to take part, but this statement referred to by Mr. Covington which I had read to you that the purpose of the Fruit of Islam is to protect officials and property of the Nation of Islam, assure compliance of members with the Nation of Islam teachings and prepare for the War of Armageddon. Members of the Fruit of Islam are required to participate in military training and afforded the opportunity to engage in judo training. Now, is that a correct statement?

The Witness: Everything is correct there but

preparing for the War of Armageddon. The only thing we prepare for War of Armageddon is to be righteous. We're not preparing to attack no one.

Judge Grauman: Well, what is the [309] purpose of having a military and going through military tactics?

The Witness: Well, this is healthy; this conditions a man's body and mind.

Judge Grauman: You regard the ordinary calesthenics as being part of the military drill, do you?

The Witness: Yes, sir.

Judge Grauman: And in using this expression, "military drill", as I understand it, you are not referring to the procedures used by the Army?

The Witness: Well, drill—drilling is calling a bunch of men out. We go out in the field and run, get our bodies in condition. We put this under the classification as drill. The judo training, that's drill. Karate, that's drill. Even if you get some left faces and right faces, that's drill. This make a man stand up straight. This is why we do it.

Judge Grauman: Well now, you made a statement that the War of Armageddon is regarded as the final war.

The Witness: Well, the Bible speaks of it as being the final war.

Judge Grauman: And that is the view [310] of your organization?

The Witness: Yes, we believe it to be the final war between right and wrong.

Judge Grauman: Now, in this Resume—you have looked over this Resume, haven't you?

The Witness: Yes, sir.

Judge Grauman: There is some reference in there that some of your meetings you are referring to the people as "white devils". Could you explain that?

The Witness: Well, white devils could be anyone that do devilish things to any people, any group of people.

Judge Grauman: Well, is the viewpoint that only the people who do devilish things are white people or could they be Orientals, or—

The Witness: (Interrupting) Well, anyone do evil is a devil, whether he black, green, red or white.

Judge Grauman: Is there any particular reason why there is reference to white devils?

The Witness: Well, Your Honor, like Muhammad tells you that of the treatment that we have received under the white people and all is the act of a [311] devil.

Judge Grauman: What is the basis of teaching that you shouldn't engage in non-combatant service?

The Witness: Well that's banning any.

Judge Grauman: Administering to those who are injured and hurt in participating in a war; are you all prohibited from doing that?

The Witness: Yes, sir.

Judge Grauman: All right, sir.

By Mr. Covington:

Q. This one point, again, I want to underscore, is what you have told His Honor, Judge Grauman, the training for the protection of the mosques and churches in the Nation of Islam and the people of Islam is not in preparation for the war of Armageddon is it? A. No, sir. We—we train and get ourselves in shape because there is so much

violence going around and see, subject to be attacked any time, and history—where it's happened and we have been attacked.

Q. This training is only as a part of your religious belief of self-defense; is that right? A. Yes, sir; yes, sir.

[312] Q. And it is not for preparation for any kind of military action is it? A. No, sir.

Q. This Resume states on page twenty-seven that the article, that is, the article of the Courrier-Journal of February 19, 1966, says it is recorded that many muslims have served in the Army.

What is the view of the organization on that? Is this or is it not true or just what is the view of the Muslim Organization on that? A. I can't—I cannot say whether that's true or false. I say if a Muslim who was following the Honorable Elijah Muhammad did participate in war, well, that was him. I cannot speak for him. That's what he's doing and this is something he wasn't conscientious objective of. Maybe he didn't understand it the way I understand it. That's the only thing I can say on that, Your Honor.

Mr. Covington: I believe that's all.

[313] Mrs. Cassius Clay, Sr., called as a witness, by the Registrant, was examined and testified as follows, to-wit:

By Mr. Covington:

Q. Please state your name and your address and what your occupation is, whether as a housewife, or you have some occupation other than that? A. My name is Mrs. Cassius Clay, Sr. I live—

Mrs. Cassius Clay, Sr.—for Registrant—Direct

Q. (Interrupting) Please talk a little louder, ma'am, so that the Judge can hear you? A. My name is Mrs. Cassius Clay, Sr., and I live at 7307 Verona Way, and I'm a housewife.

Q. And the name of your husband? A. Cassius Marcellus Clay, Sr.

Q. Senior; and are you the mother of Muhammad Ali, formerly known as Cassius Clay, Jr., is that not correct? A. That's right.

Q. Now, Mrs. Clay, would you tell Judge Grauman what religious faith Muhammad Ali was raised up in, or the Registrant was raised up in? A. Well, he was raised up a Baptist.

Q. Now, what do you know about his changing [314] his faith? I mean, what facts led up to it, and you can just tell it in your own words so that I won't have to ask you any questions; how it came about that, as far as you know, he changed his religious faith from the Baptist to the Islam faith? A. Well, as far as I know, he told me he had gone to one of the Muslim Temples and he liked that faith and so he joined it. He liked it; he thought it was right and he joined it.

Q. Now, when you learned about this did you make any effort to change him or dissuade him or stop him from stepping away from the Baptist faith to the Nation of Islam? A. Yes, I did.

Q. Tell the Judge about that, please? A. Well, I told him that I raised him as a Baptist and I wanted him to stay one, but he told me after going to the temple and hearing about Islam and that it was the true, real religion, and he liked it and he believed in it and it was true and he was not going to change and he was going to stay in it because it was the—

Q. What is it that you have noticed in his life since he's joined the Nation of Islam that establishes his sincerity in reference to conversation or [315] the life that he has with other people his age, and that sort of thing? A. Well, since he joined Islam, well, he seems to be interested in knowing about that and he doesn't take any part in no kind of social activities, nothing but going to the temple and that's all. That's all his interest is, is in his religion and nothing else.

Q. Does he talk it? A. He talks it all the time, yes; that's all he usually talk about.

Q. Do you know when it was that he first became acquainted with the Nation of Islam? A. Well, I think it was in—I'm sure it—well, I'm not sure, but I think it was in about 1960, or 1961.

Q. Well, did you every try to, more than once, try to stop him from— A. (Interrupting) Yes, I tried a lot of times.

Q. And tell Judge Grauman what you noticed when you attempted to dissuade him or stop him; what effect did it have? A. Well, what effect?

Q. What effect did it have on him; did he [316] agree with you, or— A. Oh, no; he didn't agree with me. He told me he was not going to change. No, it didn't have any effect at all. He was going to stay that way.

Q. Did he make any statement about what he would do if it became a matter of life and death? A. Well, he always said he would die for his religion. He said that, oh, so many times. He said that even before he was inducted into the Army. He said it ever since he's been in the—he said, "I will die for my religion."

Q. You are familiar, of course, are you not, Mrs. Clay, that the Registrant has conscientious objections and con-

scientious scruples against performance of military service, do you not? A. I didn't understand.

Q. You know that he objects to going to war, don't you? A. Yes, sir.

Q. Could you tell Judge Grauman what your opinion is as to whether his opinions and beliefs are honest or dishonest, or what? A. Well, I know his beliefs are honest. I know he's sincere about it because he always said that he [317] couldn't—he just couldn't go to war because it's against their religion and he just couldn't do it; his religion, you know, didn't permit it.

Q. I ask you; you know that he is not a coward, don't you? A. I know he's not a coward. I know it's on account of his religion is why he cannot go.

Mr. Covington: That's all I have.

Judge Grauman: That's all, Mrs. Clay; thank you very much.

Mr. Covington: Your Honor, if I could have just about two or three minutes recess?

Judge Grauman: Yes, let's take a few minutes here.

(Whereupon a short recess was had after which the following proceedings occurred:)

Judge Grauman: Ready, Mr. Covington?

Mr. Covington: Yes, Your Honor; we will have Mr. Clay now.

[318] Mr. Cassius M. Clay, Sr., called as a witness, by the Registrant, was examined and testified as follows, to-wit:

By Mr. Covington:

Q. Would you please state your name, your age, and your address? A. Cassius M. Clay, Sr., 7307 Verona Way.

Q. Will you talk a little louder? A. Cassius M. Clay, Sr., 7307 Verona Way; fifty two years old.

Judge Grauman: Fifty-two?

The Witness: Fifty-three.

Q. And what is your occupation? A. Commercial artist.

Q. I'm sorry; I didn't hear you? A. Commercial artist.

Q. You are a commercial artist? A. That's right.

Q. You are the father of Muhammad Ali, formerly known as Cassius Clay; is that correct? A. Yes, sir.

Q. Now, could you tell Judge Grauman the religious faith in which he was raised? A. Muslim.

[319] Q. Yes; well, his? A. Islam.

Q. What was he raised under, what faith? A. Oh, what was he raised under; a Baptist.

Q. A Baptist; and what is your religion? A. Methodist.

Q. But the wife's religion is Baptist and you allowed her to raise him up as a Baptist, did you not? A. Yes, sir.

Q. And up until what period of time did he continue as a Baptist? A. I can't tell exactly when he broke off.

Q. Now, precisely, just—well, about when was it? A. Oh, I guess—say about—probably say about eighteen years old.

Q. When he was eighteen years of age? A. I say, about.

Q. When was it that you and Mrs. Clay became aware

of the fact that he had interested himself in the religion of the Black Muslims, as it is called by the newspapers and known as the Nation of Islam, officially? A. I couldn't —can't give you exactly the time, but mostly in Florida.

[320] Q. Would you talk up, again, a little louder so Judge Grauman can hear you? A. Oh, well, I can't remember exactly the time and date, but I'd say around a little bit forward to Florida and about along that time.

Q. Now, did you and Mrs. Clay ever have any discussions with the Registrant about not embracing the faith of the Nation of Islam? A. No, we didn't care too much about it, but we didn't understand it, you know, and we tried to get him out of it, you know. We wanted him to stay a Baptist of course, but that gets out; they change, you know, and naturally, everybody has a right to change, whatever they want to be.

Q. Well, whenever you tried to dissuade him or get him to quit what he was doing with the Nation of Islam, or to give it up, what happened? A. Well, he would tell us, "I'm serious. You think I'm—I'm serious; this is my religion and I believe in it. I like what they teach," you know, about not eating pork and that stuff, you know.

Q. Did you ever reach the point to where you felt that it was a useless thing to try to change his mind any more? [321] A. I believe so.

Q. Are you familiar with his belief? A. No, sir.

Q. In opposition to war? A. Am I?

Q. Has he ever made any statement to you about his opposition to military service? A. Well, I think he said he was a conscientious objector.

Q. Right. A. And his religion—he'll die for that, you know, die for his religion, his faith, you know, the teachings of the Islam faith—not fighting.

Q. Now, when he has come home what has been his primary activity, in discussions; what does he talk about since he's embraced the Muslim— A. (Interrupting) The Islam faith and their religion; that he'll die for it. He says, "I'm serious; I'll die for this," and says, "I'll lay down my life for this.

Q. When social groups get around the house what does he talk about, business, or fighting, or the Islam faith? A. Islam faith.

[322] Q. Do you believe that he is honest and in good faith about his belief? A. In fact, I know he is.

Q. You know he is? A. Yes.

Mr. Covington: I believe that's all.

Judge Grauman: You said he said he would die for the Islam faith?

The Witness: Yes, sir.

Judge Grauman: Well, how did that subject come up?

The Witness: Well, we keep trying to hammer him out of it, you know, and he just says, "You all think I'm kidding." He says, "I'll die for this thing."

Judge Grauman: Now, Mr. Clay, I believe you gave a statement to the Government agents and they came to see you?

The Witness: Yes, sir.

Judge Grauman: Did you tell them that you thought your son would never commit any act of violence?

The Witness: Yes, sir; said he'd [323] never commit it; no, sir; that's right.

Judge Grauman: All right, sir; that is all.

Mr. Covington: That is all. I will call the next and last witness, Muhammad Ali, known also as Cassius M. Clay, Jr., the Registrant.

[324] CASSIUS M. CLAY, Jr., called as a witness, on behalf of the Registrant, was examined and testified as follows, to-wit:

By Mr. Covington:

Q. Would you please state your name and your age and your residence? A. Well, my name is Muhammad Ali, and my slave name was Cassius Marcellus Clay, Jr., and my home address is now at 4610 Northwest 15th Court, in Miami, Florida.

Q. And where do you spend most of your time? A. I spend most of my time at my business office and with my leader, Honorable Elijah Muhammad, at his house in Chicago, Illinois.

Q. Now, tell Judge Grauman—we have heard about your being raised up as a Baptist—how it was that you got acquainted with the faith of the Nation of Islam? A. Well, it's true I was raised as a Baptist and during the time that I was a Baptist I never understood the teachings of the christian—

Q. (Interrupting) I wonder if you would be good enough to talk a little louder? [325] A. It's true that I was raised as a Baptist and while being raised as a Baptist I never understood the teachings of the christian preacher, and I never understood why that Heaven was in the sky and I never understood why Hell was under the ground and I never understood why the so-called negroes had to turn their cheeks and have to take all the punishment while everyone else defends themselves and fought back.

I never understood why our people were the first fired and the last hired.

I never understood why when I went to the Olympics in Rome, Italy, and won the Gold Medal for great America

and come back to Kentucky and I couldn't go in a downtown restaurant, and I always wondered why everything in it was white.

I always wondered these things and I am saying this to tell you why I accepted the religion of Islam the minute I heard it then while in 1961 I was walking down the streets of Miami, Florida, a Muslim walks up to me and asked me would I like to come to Muhammad's Mosque and listen to the teachings of Islam and listen to why we are the lost people and listen to why—what my true religion was before we were made slaves and this sounded interesting and, by me being a person of common sense, I went to the [326] Mosque to listen and immediately, on entering the Mosque—I would say the first half hour after being there, I immediately wanted to know what could I do to become a member, and I started to say that the minister of the Mosque was preaching on the subject of why are we called Negroes. He said that the Chinese are named after China and Cubans are named after Cuba and Russians are named after Russia and Hiwiians are named after Hiwaii and Mexicans are named after Mexico and Indians are named after India.

So, he said, what country is named Negroes and he said why are we called negroes, and this made sense to me and I had to check into it.

I asked questions and he gave me good answers and he also said that we do not have our own names and all intelligent people on earth are named after their people of their land and their ancestors. He said the Chinese have names such as Chang-Chong, and Cubans have names such as Mr. Castro, and Russians have names such as Mr. Kruschev and Africans have names such as Lmumba. We call ourselves Culpepper, Mr. Tree, Mr. Bird, Mr. Clay,

Mr. Washington, and he said these were names of our slave masters, and by me being an intelligent man and the Lord blessing me with five senses, I have to accept it because there have been write-ups in the Louisville papers where [327] my father and me were named after a great white slave father named Cassius Marcellus Clay.

So, I had to accept this, and he also told us that the proper name of God is Allah and that the Honorable Elijah Muhammad was taught by Allah for three and one half years to teach the so-called negroes the true knowledge of his God, the true knowledge of his religion, true knowledge of his names and his future and not to force himself on whites and not to beg whites to come to clean up the rats, but to clean up our own neighborhoods, respect our women, do something for ourselves, quit smoking, quit drinking and obey the laws of the land and respect those in authority.

Immediately, I had to check and see who is Elijah Muhammad because Elijah Muhammad teached and I asked all the press who he is and they said that he was a self-styled leader and I had to find out what self-styled meant and I found out that everything that he teached then he had to style it his self.

So, common sense just told me that a man can't stand here in the middle of America preaching the things that he's preaching and no government, no lawyers, no doctors, no theologists, nobody would challenge him or as much as even mention his name in public.

So, after finding out who he was, and I had to [328] convince myself that he was a divine man from God because I knew that I would have to give up a lot and now that I have accepted the religion of Islam, I turned down at least one million, eight hundred thousand in movies.

I have turned down a two million bout in Chicago with Ernie Terrell, and I have—I just put up fifty thousand cash yesterday to alimony fees on my wife only because she would not wear the proper dresses and be a Muslim.

All of this is why I am a Muslim and I really sincerely believe it and as my father and mother have said, I'll die right now in this courtroom, because I know this is the truth I'm talking.

Q. Now, you first got acquainted with the Muslims, the Muslim belief in Miami? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. Now, who took you under wing, or who influenced or guided or directed you while you were in your initial stages of training in the Muslim faith? A. Well, I would say the true person that really guided me and directed me while I was at the Mosque that was the minister at that time, his name was Ishmael X., [329] and Sam Saxon here, my driver and helper, he was with me a lot when he would —I'd go to the restaurants and I would order bacon and ham and he would tell me about how the hog is an unclean animal and how the Lord created the hog as a scavenger and that we shouldn't eat it and that it affects our arteries, sometimes high blood pressure, some times low and he convinced me to quit eating hog and he always stuck with me and chased me out of the night clubs and I would be in there with women and drinks and all and he would get me out of night clubs and take me to the temple when I didn't want to go and he was one of the persons mainly instrumental in keeping a check on me as far as my young membership was concerned.

Q. After what period of time were you able to be on your own? A. Well, I was able to—I remember talking about it with the Honorable Elijah Muhammad and he said

that we are all human and none of us are able really to be on our own.

Q. I understand, but where you didn't need the guidance or the constant surveillance or watching by Mr. Saxon? A. That was about three weeks before the Sonny Liston fight when I became officially registered and [330] put my name on the Lamb's Book of Life.

Q. Now, would you explain to Judge Grauman how it is and why it is that you have accepted the name Muhammad Ali? A. Well, after, as I said, after hearing the teachings of the Honorable Elijah Muhammad and hearing the history of the so-called negro and how we were given slave names and the fact that we do have names of our masters, and the Honorable Elijah Muhammad tells us that we were declared free a hundred years ago by Abraham Lincoln and we were not free in name as well as fact, so therefore, we who come into the knowledge of ourselves and understand who the Honorable Elijah Muhammad is, it's an honor and a pleasure to receive an "X", which means that such as an ex-convict, or Joe Louis was an ex-champion, and it means we were ex-christians, the "X" meaning we are no longer a product of the old christian ways that we were.

So, therefore, we take the name of "X" and it's a great honor and pleasure and blessing to receive a holy name whether it's Robert or Corene or whether it's Robert Shabazz, or any last name, but I was blessed to have two holy names and I had to accept them and the Honorable Elijah Muhammad named me on radio about one month after my fight with Sonny Liston, and at the time I did not know [331] that he would name me. I just heard on the air that would I accept the name and immediately, I did, and I would like to explain that the names of Muhammad Ali

are two attributes of Allah. Muhammad means one who is worthy of all praises and one most praiseworthy, such as the supreme being, and Ali, means most high and ever since I have accepted the name of Muhammad Ali I now have government invitations pending from countries like Saudi Arabia, Egypt, Sudan, Pakistan, Syria, Turkey and Lebanon now pending because of my Islamic convictions and my accepting the Muslim faith and the name of Muhammad Ali, and not only am I proud that I accepted it, but I'm now benefiting the honors, all of the honors and praises from accepting it.

Q. Now, what, if anything, did you do about your belief that—did you just quietly sit and say nothing to anybody about it, or did you get up and do something about it and go tell others and try to get them in the organization?
A. Well, Almighty Allah is my witness now, as I sit on this stand, about one hour after I first heard the teachings of the Honorable Elijah Muhammad, immediately I would run up and down the streets shouting it to other negroes thinking that they would all accept it and love it whenever they heard it, but I found out later [332] that many of them are dead to the knowledge of the truth and they are hard to talk to and the Captain would have to stop me a lot and tell me to quit preaching and hollering on the streets too loud because all of these people heard of it before me.

They have had a chance to accept it, but they wouldn't, but now I'm a little more mellow in my approach on people, but constantly—but answering your question, I would say at least—at least six hours of the day I'm somewhere walking and talking, or going to schools or colleges all over the country, Muslim temples, and there are some fifty odd mosques all over the United States that I am invited

to minister at right now, and constantly—in Chicago, I have this thirty passenger bus that, daily, we go out bringing in busloads of people to the mosque, and now I'm talking to the Blackstone Rangers, which is the worst negro group in the wilderness of North America who have killed at least one hundred boys since they've been in Chicago, and the police—nobody could handle them and I was blessed with, all praise due to Allah, I was lucky enough to round up the twenty-one of the ring leaders and take them to Jet and Ebony magazine and where the write up will come out in Ebony and Jet magazines sometime this week on the confessions they have made, how they say they are ashamed for the way they been shooting and [333] killing and how I've convinced them to come together, and this will be out soon. So, this is what I do as far as ministering and talking is concerned.

Q. All right. A. It's daily, all the time, but not only to blacks, but to many whites, on television, just as the Les Crane Show, Johnny Carson and the Irv Cupsonet Show in Chicago and Jack Brinkhouse on his Radio show where people call in—constantly defending the faith and teaching it, and we have to do more talking because daily, these American, so-called negro leaders are coming to our headquarters and they are coming to me and they are asking us more about our side of the program, so really, I'm planning to go full time after this fighting is over, which I hope is in another year.

Q. But as a matter of fact, you put in about a hundred and sixty hours a month in it now; isn't that right? A. Something like that; maybe a little more; yes, sir, but when I'm really in training and in camp for fights, a week or two before the fight I don't have time, not too much time, because I really burn a lot of energy debating and

answering questions, so during training we don't do too much ministering.

Q. Right; now, tell the Judge what you have [334] done in your fishing work as compared to what other Muslims—and we are not saying this to brag or anything, but just to state the facts—as to numbers that you have been able to bring in at the various places? A. Yes, sir; I understand. First of all, I'd like to say that many people say that the reason I am so successful in my accomplishments as far as fishing great numbers of people is because I'm the heavyweight champion of the world and if I wasn't the heavyweight champion of the world I couldn't draw the people, but the reason I can so strongly walk by all of this is because I, myself, know that it was the teachings of Islam that taught me to really restrain from cigarettes, women of all races that at least many negroes run to in opposition to the teachings of Islam, and this is the onliest thing now keeping me out of night clubs and places that serve alcoholics like liquor and demonstrations where I could become popular in leading people.

So therefore, it's the teachings of Islam that has given me the proudness and boldness to say, "I'm the Greatest," and lift my chin and which has enabled me to be one of the most popular athletes on earth. So, therefore, when they tell me that if it were not—"If you were not a Muslim; if you were not heavyweight champion; [335] you would not have—you would not draw these people. So, I know that it was Almighty God, Allah, through the teachings of the Honorable Muhammad Ali, that enabled me to be strong, plus to keep going once I—my mother and father raised me from a little boy to the age of eighteen to be strong and healthy, but after receiving fame and leaving the city, the teachings of my mother and father,

the teachings of the christian church, that couldn't put enough fear into me to stay out of night clubs and couldn't put enough fear into me to dodge the English ladies and American white ladies and Negro ladies that chased me daily.

So, therefore, when they say that, "You would not bring in five hundred people," inasmuch as I do sometimes, "You would not bring these five hundred people if you were not the champ," well, if it was not for Allah and the teachings of the Islam, I would not be champ and I could not hold my title so strongly after being the champion, so I would say that the average Muslim, answering your question, that the average Muslim is doing good if he brings three people on the average a night to the mosque and my average, all praise to Allah, with my title, I've been able to bring in, at the most, in three days' time my [336] record, in Detroit, Michigan, and that was about five hundred and fifty people and on the average it's about thirty people a night.

Q. Now, have you devoted time not only to fishing, but also to teaching and preaching in the mosques and temples and various—in the various parts of the United States in the Nation of Islam? A. Yes, sir; and I'm due to be in Atlanta, Georgia Mosque next Friday, but it will not be possible because I have to go to Germany for this bout, but much of my time is spent in the mosques in whatever city—there's not a city in the United States where there's a mosque that I don't visit when I'm in the city, Muhammad's Mosque, and I have invitations to come to various Muslim groups and I will be speaking and lecturing to about ten thousand people the 28th of this month in Chicago at the international amphitheater where the Honorable Elijah Muhammad is addressing all of the press and

the negro leaders and Muslims plus all of the negroes that are not Muslims, so we expect a crowd of about maybe ten thousand where I will be, I hope and pray Allah, one of the major speakers.

Q. All right. Now, I want to ask you whether or not it is true as stated in your conscientious [337] objector form, and in other papers that are on file, that you have honest, sincere convictions and conscientious objections to the performance of military service, combatant and non-combatant; is it true that you do have these objections sincerely? A. Well, sir; I would not—and I say this before the Judge and the many here and Almighty Allah himself, who I'm sure is looking, wherever we talk, but I would not just say this just to get out of the Army—I have, I would say, and excuse the expression, caught more hell for being a Muslim, even before the Army talk came up, with my wife and boxing, and the movie rights that I turned down, the advertisements, the T.V. commercials, the royalties and endorsements that I have had to turn down and I have done all this before the Army came up and it's not just saying that I would not participate in war, but we actually believe it and feel it.

We fear—we fear the wrath of Allah once we come into a knowledge of Almighty God, and once we understand who the Honorable Elijah Muhammad is and his mission, then we fear—we fear Allah; we fear what will happen to us if we go astray of his teachings in any way.

So, therefore, we are awful serious in anything we say about fighting a war, adultery, or fornication, or [338] drinking alcohol, cursing, using profanity, or anything that is against the teachings of the Holy Qur'an and the Honorable Elijah Muhammad, and Allah is who we really fear.

Q. Now, you heard the testimony of Mr. Saxon, did you not? A. Yes, sir.

Q. To Judge Grauman; and do you agree with him as to what he said concerning the teachings of the Islam Nation? Do you agree with what he said about what the faith teaches? A. Yes, sir.

Q. Now, would you go into military service? A. No, sir.

Q. And would you tell Judge Grauman why not? A. Military—you mean as far as weapons are concerned?

Q. Yes; well, military service of any fashion. A. Well, sir, Judge; we are taught, and we who believe in the teachings of the Honorable Muhammad Elijah, which is bestowed upon him from Almighty God Allah, and the Holy Qur'an, we believe sincerely in the teachings and this was written before my mother and father birthed [339] me into the world—this was in the Holy Qur'an before I was birthed into the world and not just something I'm talking up to dodge military service, but the Holy Qur'an do teach us that we do not take part of—in any part of war unless declared by Allah himself, or unless it's an Islamic World War, or a Holy War, and it goes as far—the Holy Qur'an is talking still, and saying we are not to even as much as aid the infidels or the non-believers in Islam, even to as much as handing them a cup of water during battle.

So, this is the teachings of the Holy Qur'an before I was born, and the Qur'an, we follow not only that part of it, but every part.

Q. Now, on page eighteen of this F.B.I. report that you have read over, it says that the registrant stated that he would not have a—would not have to go into military service because of his religion, but added that if he had to

go he would go. Now, does that mean there that you would go into the military service? I show you this, and did you say that? A. No, sir, not—I can't remember saying that. I couldn't—I mean, the way I feel now is the way I felt then and I don't see why I would change or say something like that, that would be contrary to everything [340] that I believe and stand for.

Q. The "if he had to go he would go", is that your belief? Is that your statement? A. No, sir; that's not my quote, sir. I know nothing of who wrote that, or when, what paper it was in.

Q. Did you ever tell anybody that you would go into the military service since you have embraced the faith of the Nation of Islam? A. No, sir.

Q. Would you explain to Judge Grauman about what it say here on page twenty-one of the F.B.I. report about the time when you purchased a gun—that gun in Miami—and it says that he recalled that when he saw a press report that the registrant had purchased a gun, he went to the registrant, that is talking about Mr. Saxon, now, and the Registrant, that's you, explained that he had purchased it more or less as a toy, and Mr. Saxon stated that he immediately took the gun from the Registrant and threw it in the Atlantic Avenue. Would you explain to Judge Grauman how come you to get the gun, why, and then what happened, in your own words here, as it happened? A. I was walking down the street, about Ninth Street—exactly Ninth Street, and Northwest Second [341] Avenue, in Miami, Florida, on the right hand side of the street, and there was a—a pawn shop, and at the time I was looking for a used record player.

We train in Miami, and I don't stay in Miami, so I didn't want to buy nothing too expensive—something worth about

twenty-five or thirty dollars. So, I purchased this old record player worth about thirty-five dollars and on the way out, he had a bunch of old guns, Colt 45's and derringers, the one that Matt Dillon used, and all kinds of guns, and it was interesting, and this particular gun, I think he said went back as far as ninety-six years and it was a little, real, steel gun and it broke down; carries a little bitty shell —I think it's a twenty-two, or smaller, and I think I bought that gun for about thirty, thirty-five, or forty dollars and it was an old gun, kind of rusty. It was really just an old, brownish-steel looking, and I just bought the gun and it was about that long and it was about that wide (indicating).

Q. You are indicating about three inches by two inches, is that—or four inches by three? A. About like that, yes; and I just took it home with me, and the next day it came out in the papers that a gun was bought and registered by me, and at the time I think some kind of trouble was going on. I think it was [342] either with Malcolm X, or someone, some kind of radical talk was going on and the word got out that I was afraid and I had went and bought a gun to defend myself, and it was a joke because the gun barely will shoot. It was old and rusty and it broke down. If I bought a gun to defend myself I would buy a new six shooter, or something that would shoot seven, eight times, if I was that kind of person, but this is just a one-shot derringer and I bought it to just hang up over my little mantel place—just a mantel piece, and Sam came in and he took it down and said, "We can't have these", and I said, "They make a lot of these things, but they don't really shoot," and he said, "We don't even want it around," and he said, "If the Honorable Elijah Muhammad walked in here he'd put you out for having it," so we had to—I gave

it to him. He's the Captain of our Mosque, ordained and authorized and commissioned by the Honorable Elijah Muhammad in all of the temples throughout the Miami area. So, he contended that it was an order and I had to give it up and so then he threw it away.

Q. And did you give it up conscientiously— A. (Interrupting) Oh, yes.

Q. (Continuing) and willingly and without any complaint; is that right? [343] A. Yes, sir; yes, sir.

Mr. Covington: Now, Your Honor, I'd like to stand here next to the Registrant.

Judge Grauman: All right.

Mr. Covington: Because we both can use this together.

Judge Grauman: All right, sir.

Q. Now, on page twenty-five of this resume of the F.B.I. which you have read, it states, and may it please the Court, I am not going to make a legal issue here that I want you —that I want Your Honor to rule on; I just want to note it for the record, that it is my opinion, in behalf of the Registrant, as his counsel, I would object to all of the material that appears on page twenty-five and twenty-six and twenty-seven where there are quotations from newspapers, because this does not properly constitute a resume or inquiry, but since it is in here and we have read it, we are going to go ahead and make our comments on it, but I just want to let the Record show that it is my belief that these newspaper items compound hearsay upon hearsay, which is illegal, but I am not asking for a ruling from Your Honor. I just want to reserve it for whatever the Record may be worth and let the Department of Justice rule on it.

[344] In other words, I want to let the Record know that we're protesting and that we are not going to let it go unanswered because we do protest. Newspaper articles are not people and a résume of inquiry is properly based upon inquiry of people, not quotations from newspapers.

Now, coming down to the specifics where it that the following materials are based upon press accounts, the Amsterdam News, New York, on March 28, 1964, quoted the Registrant that:

> "I was rejected by the United States Army but I was ready to go. I was ready to do what the Army requested."

Now, you heard what you—what I have just read to you, have you not, Muhammad Ali? A. Yes, sir.

Q. And you see that underscored? A. Yes, sir.

Q. When I showed—I mean, when I read you that and when you and I talked about that what was your statement and what is your statement now to Judge Grauman about that statement? A. Well, this—I would say this, now, that this Amsterdam News is a negro paper and they are known for slandering and I believe, making many mistakes. [345] They have on me. They even as much as, one time, took me standing beside a model and cut my arm off and drew another arm and drawed her hand wrapped around my hand, saying that she was my next wife, and this is a fact, and we started to sue the newspaper for it, but the Editor of the paper knew our leader, Honorable Elijah Muhammad, and I was advised not to, but they actually drawed a picture of my arm—cut my arm off from here (indicating), down and made me holding her hand. So, this is the kind of newspaper that is.

I don't remember who this was. I don't remember who even wrote this and I can't see myself saying nothing like that.

Q. Are you sure that you didn't say it? I mean, were you ready to go into the Army when you made that statement? A. No, sir; no, sir.

Q. That statement of "I was ready to do what the Army requested." ? A. No, sir.

Q. And if you did, it would be inconsistent with what you have told the Judge here what your beliefs are— A. (Interrupting) Yes, sir.

[346] Q. (Continuing)—would it not? A. Yes, sir; and I wouldn't say nothing like that, just fearing what my leader would say if he had read it; no, sir.

Q. Now, the next is from the Chicago American on February 24, 1966, reported that:

> "the decision that the Registrant would become a conscientious objector was made by the Black Muslims."

That was your decision, wasn't it? A. Yes, sir; nobody makes decisions for me. The Black Muslims wouldn't make no decision for me. This is all mine and everything I lose, or turn down, if I may say give up, is my decision. Nobody makes decisions for me; no, sir.

Q. Now, here, the Los Angeles Sentinel, and I'm reading from page twenty-five, on August 13, 1964, quoted the Registrant's wife as stating that:

> "She was a Muslim and that her leader is the Honorable Elijah Muhammad."

As a matter of fact, she never was a Muslim; now, isn't that the— A. (Interrupting) No, she never was a Muslim,

same way she lied she told me she would embrace [347] the religion of Islam, and she told me that she would do anything that I say—marrying a man like me, a man of my stature and physical ability, wealth and fame, she'd be fool not to obey and do what I asked her to do, but she lied then, which it was proved in the Miami court she was lying and now she's lying in this newspaper write-up if she said this, that she was a muslim and her leader was the Honorable Elijah Muhammad. She had never been a Muslim and never said her leader was Honorable Elijah Muhammad.

Q. Now, this says that the Miami Herald of June 8th quoted the Registrant's wife—that's you, the Registrant—quoted the Registrant's wife as stating that the registrant slapped her. A. No, sir; I never touched her one day of my life and I don't see why she'd tell a lie like that and I don't remember her telling it to the newspapers.

Q. Now, the Courier Journal here in Louisville, on March 24th, reported that you expected to be called up for the Army duty and your inclination now is to serve, and that's March 24, 1963, to serve two years and get it over with rather than serve six months and attend the reserves. Did you ever make such a statement as that, that you— A. (Interrupting) I'm not saying—I won't [348] lie here on this stand in front of the Judge that I didn't say that. It's possible that at the time, campaigning for the championship, before I was recognized as a Muslim by the Honorable Elijah Muhammad himself, and I'm sure that was before I registered and put my name on the Lamb's Book of Life, and a real, registered follower on paper, but this is possible. I can't remember now.

Q. That could be before that? A. Before, that I said something like that, yes.

Q. Now, the next one here, the Chicago Sun Times, for July 3, 1963, quoted you as saying that the Black Muslim organization is the greatest one that you found, but that you added that you did not know whether you were a member of the organization. This was July 3rd of 1963. A. Yes, that's—I don't know if those are my exact words, but the whole basic idea and philosophy of this paragraph is right.

Q. At that time? A. That—at that time, yes. I knew that I believed, but at that time I didn't know that to be a registered Muslim you would have to sign, answer questions and pass a few tests.

[349] Q. But you did in 1964; is that right? A. '64, yes, sir.

Q. It states in here in the Herald Tribune in New York, January 23, 1964, it is reported that you registered at eighteen and while visiting in New York at that age, you first heard a speech by a Black Muslim, and his interest in the organization was revived—that means your interest was revived—when you started attending Muslim meetings in Miami.

Did you first become acquainted in Miami, or in New York? A. I don't—I didn't become acquainted with the teachings of the Honorable Muhammad Elijah in New York at that time, but I did, in Harlem, they hold street rallys, black nationalities and all kinds of civil rights movements and they all talk on the same basis and the same philosophy, in a way, of the teachings of Islam is taught by the Honorable Elijah Muhammad, but I was enthused over the talk that he was talking about how we need freedom and how much hell we have caught and how we are living in rat houses and we're the first fired and the last hired and this and that, and that, and I was enthused by that idea,

but the basic teachings and foundation and getting to the root of the problem of the so-called negro and [350] and knowledge of ourselves and religion was gotten in Miami at Muhammad's Mosque.

Q. Now, the Miami Herald for February 7, 1964, reported that:

> "The Registrant's father stated that the Registrant had joined the Black Muslims four years ago at the age of eighteen."

A. No, I don't—that's not right.

Q. That is not a correct quotation? A. I don't think they quoted him right because I wasn't—at the age of eighteen I was still in Louisville and never had been to Miami, Florida, until later, about 19—

Q. (Interrupting) Your father has testified here today. You heard his testimony? A. Yes, sir.

Q. Now, the New York Journal of February 27, 1964, quoted the Registrant in connection with some recent Muslim meetings and here is what they said you said:

> "I have just spent four hours with God. He is going to fix it up so I won't have to serve in the Army."

A. No, sir; that's got to be a misquote. I've never seen God. I never—I—that's foolish, saying [351] I spent four hours with God. That was a real misquote.

Q. Now then, the Chicago American for February 28, 1964, reported that the registrant revealed that he had been a Black Muslim since 1959 when he was seventeen years of age. A. No, sir; that's—whoever got that, it's a misquote. I never remember saying that, and in 1959 I was in the Golden Gloves in Chicago and I was living

here in Louisville and had never really been out at the time. So, they—I don't see where they got that.

Q. March 8, 1964, issue of the Courier Journal, Louisville, Kentucky, reported you as stating you didn't—you don't hate anybody and, "I know the Muslims don't teach hate. If they did I won't be with them." That is correct, isn't it? A. That's true; we do not. Many people confuse the teachings of the Honorable Elijah Muhammad with the teachings of hate and the onliest hate I know, as far as the teachings of the Honorable Elijah Muhammad is concerned, and that is we hate the way that we've been treated for four hundred years. We hate the way that our pregnant women are being kicked around the streets; we hate the way the innocent negroes have been shot and lynched and killed outright, but the killers are not—never been caught, [352] we hate that we're the first fired and the last hired and we hate the way we have served so faithfully for the country in all wars and have spent three hundred and ten long years and enabling America to have fifty of the richest states on the planet and yet still we are subjected to treatment which cannibals and Africans are treated better.

So, this is what we hate and then, we, as far as hating the white people as a race is concerned, we have so-called negroes that are white, we have chinese that are white, we have Muslims in Saudi Arabia that are white or that are European, we have Muslims in Pakistan and we have Muslims all over the world that are white. So, we do not hate white people. We hate the way certain people have treated us and we also, now, have a better knowledge of ourselves. We have a better knowledge of nature. We have a better knowledge of where we should go, where we shouldn't go, what we should do, what we shouldn't do.

So, we are taught by the Honorable Elijah Muhammad that if a wild lion broke in, say this courtroom now, I would break out—not because I hate lions. I don't have a chance to hate the lion. I just know his nature is not like mine and we can't get along. So, we don't hate white people, and we not only—we get a knowledge of ourselves and we want to be clean physically, morally, mentally, [353] and we want to do something for ourselves and we no longer are what—we no longer want to force ourselves on the master and we no longer want to beg the master. We want to separate since we are free people; since integration will not work, and we are the ones who are trying to force it and receiving in return some of the most brutal treatment of any humans on earth.

So, we do not hate white people. We want to go for ourselves and do for ourselves and get some of this earth that we can call our own like other intelligent civilized humans do on the planet Earth. So, this is the press, distorting the teachings of the Honorable Elijah Muhammad; this is the press trying to turn negroes against these teaching and brain washing the world to the truth of the Honorable Elijah Muhammad. We are not haters. He teaches us to love. We don't break no laws. We are not in no riots, no demonstrations. We pray five times a day. We fast three days a week and we constantly worship at the Mosque three nights a week. We are peaceful people and we are not haters, but we are the victims of hate.

Q. Now, the New York Times on March 24th, reported that you were first introduced to Islam when you were seventeen years of age in Atlanta. A. No, sir; that's—when I was seventeen [354] I had never been in Atlanta. This is all false quotes and I don't see where they got them from, for that's the F.B.I. too.

Q. Now, this statement down here at the bottom of page twenty-six:

> "If all American Negroes are not Muslims within two years I will get out of the Muslims—"

is that— A. (Interrupting) Where was that? When was that supposed to have been said?

Q. This is a quotation that was supposed to have been said on May 22nd of 1965, or about that time, quoted in the Chicago Daily News. A. No, sir; that's a misquote, and I have heard the Honorable Elijah Muhammad said that Allah has revealed to him that at the end of 1966 as far as the Muslim calendar is concerned, or Islamic calendar, which is, I think, four months longer than the one we have here in America, every so-called negro will be sympathizers or believers in the teachings of the Honorable Elijah Muhammad, but I never made a statement that I would leave this if every negro is not a Muslim because it is predicted in the Bible, in the Holy Qur'an, that many will not accept and [355] many will go down and so therefore, that's an illiterate statement for me to make and I wouldn't say nothing like that and it's a misprint.

Q. Now, here on page twenty-seven, it is quoted in the Chicago Daily News, February 18, 1966, about your stating your conscientious objections, having no quarrel with the Viet Cong and I want to come down further where it says that the Registrant—that means you—Muhammad Ali, was further quoted as saying:

> "Let me tell you what Muslims are taught; to defend ourselves when we are attacked."

That's correct, isn't it? A. Yes, sir.

> "Those Viet Cong are not attacking me. These Viet Cong are righting a very nasty war over there. There's a lot of people getting killed. Why should we Muslims get involved. Besides, I'm fighting for the Government every day. I'm laying my life on the line for the Government. Nine out of ten soldiers would not want to be in my place in the ring. It's too dangerous."

Now then, that was in—was that statement made? [356] A. Yes, I would like—

Q. (Interrupting) Explain it then. A. I would like to say—

Q. (Interrupting) Tell how it came about and give the whole picture. A. I would like to say that everything in that—I believe that is true and I'm also taught by the Honorable Elijah Muhammad and ministers of the Islamic faith or teachings that there is an old saying, "He who keeps his mouth shut will save his life," or something. I'd have to check the Holy Qur'an and Bible to see what it was I referred to, but it says, "He who keeps—holds his tongue will save his life," and this is the truth and we actually believe it and it's proof and it's factual, but this was me, talking on my own, not as a minister of the Honorable Elijah Muhammad, and I was condemned by him officially in the religion for making such a wild, boastful statement, but I was excited at the time and disturbed and speaking—and I have paid greatly for it.

Q. All right. Now, you heard the testimony of Mr. Saxon about the Eternal Message of Muhammad and that book, concerning the four hundred years ago statement? A. Yes, sir.

Q. And your testimony would be the same as [357] his about that, wouldn't it? A. Yes, sir.

Q. Now, here at the top of page twenty-eight it quotes the Chicago American of April 8, 1966, as saying that you tried to join the Army Reserves in Nebraska, but you had been turned down. A. Sir, that's another misquote, and did you say that was the F.B.I.?

Q. Well, this is a resume of what the F.B.I investigation turned up and they put this quotation in there from this newspaper. A. I just didn't know they could be so wrong because I have never been in Nebraska where—I've never been nowhere around Nebraska trying to join no reserves or whatever it is.

Q. All right; so this is incorrect? A. All incorrect, sir, right.

Q. Now, on page twenty-eight it refers to a statement that you wrote an article in April—April 15, 1966 issue of "Muhammad Speaks" about being successfully carried through major fights and you referred to the Chuvallo fight as on that you put faith in yourself father than God. Is that right? A. Yes; I constantly—

[358] Q. (Interrupting) Would you explain to the Judge about how that came about that you wrote that and why? A. Well, the reason—what happened was that during my fight with George Chuvallo in Toronto, Canada, the fight was changed and I was scheduled to fight Ernie Terrell and the last ten days there, the fight was changed to George Chuvallo and I had to completely change my style. I was training for a tall, fast, clever boxer, and I had to change to a short, brawling, mauling type of fighter, such as Rocky Marciano, and it was such a quick change until I told the press that I—I was about ten pounds overweight, and the press asked me how would I fight—

how would I get in shape and at that time the press releases went something like this—I told them that I—this is a quick change and I'm going to have to rely on my speed of foot and my speed of hand. I'm going to have to rely on my natural ability to pull me through this one. Then, the fight was tough. It did go close. I hurt my hands in both fights—I mean, I hurt both hands in the fight and I had a terrible headache and after the fight, usually when I pray, I praise Almighty God, Allah for the Honorable Elijah Muhammad and his teachings of righteousness and cleanliness that enables me to come through [359] so victorious and superior over all my contenders without a mark on my face.

I didn't do it after that fight and after the fight I said it was my natural ability that pulled me through and I didn't mention Allah or his messenger, and later, I realized what had happened, one night, how I had forsaken Allah; how I had forgotten to praise Allah after the fight, and before the fight I was praising more so my natural ability than I was Allah, and so therefore, I had to get it off my chest, off my conscience in the Muhammad Speaks newspaper and I wrote an article, bear witness that there is no God but Allah and Muhammad Elijah is his Messenger, and the worst fight I had, the closest fight that I had, I didn't praise Allah; I didn't praise his Messenger, and the results were seen by hundreds of thousands on the closed circuit television and were disappointed in the outcome of the fight, and I had to be a man and admit that it was my fault in the whole. The whole thing was my fault and the way I conducted myself before the fight and after. So, that's the results of—I mean, that's what you're reading.

Q. That's right; that is what it refers to. Now, on May 20, 1966, and I am reading at the lower part of page

twenty-eight of the F.B.I. resume, the Miami News [360] reported that you, when asked your choice among recruitment in the Army, work in the Army institution as a conscientious objector, or go to jail, you replied, "Let them put me in jail. Damn the fights; forget the money; let them put me in jail."

Now, explain that and— A. (Interrupting) Oh, that was something else where I was condemned by some of my leaders and advisors concerning the teachings of Islam, and I would be lying to sit here and say that I was an angel, or I will be lying to say that I have no fault, or I have never made no radical sounding reports to newspaper writers.

I would be less than a Muslim to tell a lie here in front of the Honorable Judge, on the judging stand, but I did say something like that and I would like to say what I said before I said that.

Q. All right. A. He said to me—he was a real southern —he was from Georgia and he was a real agitating writer who came to Miami to do a write-up and I think he writes for the Miami—what's that, the Miami Sun paper he writes for?

Q. Well, wait a minute; the Miami News. A. Miami News; and he said to me, he said, "Well Champ, it looks like to me you're not the greatest [361] now. Are you going to—how are you going to work your way out of this? Looks like they got you now."

It's not intelligent of a newspaper man to me, the heavyweight champion of the world, not showing that respect for me. He's showing—well, he said, "We got you now. What you going to do about it? What are you going to do? You always bragged about how much money your fight draw. You're always bragging about this; what you going

to do about the money; what you going to do about this and that," and all those kind of things and I just told him, "Damn the money; damn the fighting; damn the movies; damn it all if it means that I'm going to have to go against my God," and I believe I would rather die and go to jail if it means that and if I had to do that as the onliest alternative. So, what do these writers do? I have learned that they ask you a question and then they write the answer, but they don't play the question up, so that was that.

Q. All right; thank you. Now, on page twenty-nine it refers to the Three Star Final edition of the Chicago American at page twenty-three, column one, reporting that the Registrant, that's Muhammad Ali, told close friends he would like to visit wounded veterans, or [361] wounded Viet Nam servicemen in the Great Lakes Naval Hospital on July 5, 1966, and officials of the Great Lakes Naval Hospital, Great Lakes Naval Training Center, Illinois, advise that neither the Registrant nor anybody reportedly representing him had indicated the Registrant would like to visit the wounded Viet Nam servicemen. A. Well, sir; I—

Q. (Interrupting) Was any statement made by you about that? A. No, sir; and I would like to say about it that I did not say that I would like to do this, and not saying that I see nothing bad in going to visit because we have black, white and all kinds that are ill and I go everywhere. I'm the Champion of the World, which is the Jewish, the Christians, Baptist, Catholic, Japanese, Chinese, Russians, white and black, and I would like—I wouldn't mind visiting none of these people because it's my obligation as the Heavyweight Champion of the World but this

goes to show how they can just outright lie, and the fault that they seem to be looking for is awful weak because none of it—ninety per cent of it is just—just ridiculous and no truth in its whatsoever.

Mr. Covington: I believe that is all, Your Honor.

[363] Judge Grauman: When did you first become a conscientious objector to combatant service?

The Witness: Well, sir; I would say as far as the teachings of the Honorable Elijah Mumammad is concerned, I was registered as a Muslin about three weeks prior to the first Sonny Liston fight and then if I had went to any type of a war or done anything morally or spiritually that wasn't in accord with the teachings of the Honorable Elijah Muhammad I would be casted out or severely punished by himself; but I would say I, myself, off paper, as far as being registered as a Muslim is concerned, was a conscientious objector the hour that I first heard the teachings of the Honorable Elijah Muhammad.

Judge Grauman: And give us the approximate date when that hour was?

The Witness: Sir, I would—I couldn't. It's impossible for me to say the exact date and it would be hard to say the month. It was about some time in 1960 or 1961 and may have been November, but Angelo Dundee, my trainer, he would know if he's got the date when I first arrived in Miami, then, because it was a few months after I had gone there—a month—a month after I had gone there—the first month that I was there and I don't know the month. It was a Wednesday night, I know.

Cassius M. Clay, Jr.—Registrant—(By the Court)

[364] Judge Grauman: After you had arrived in Miami and you had gone to hear the Honorable Muhammad Elijah, then in your own mind and conscience you determined that you were a conscientious objector?

The Witness: Well, sir, it wasn't—I didn't go to hear the Honorable Elijah Mumammad. I went to hear his teachings by one of his ministers.

Judge Grauman: Yes.

The Witness: But I would be lying to you if I said to you that at that moment I was determined that I would be a conscientious objector because war was not pending at that time. I had nothing to worry about and I had nothing about war on my mind and all I knew and heard was the truth and I understood it and I believed it, but later—it—later it really ground that—it growed into that and I imagine if you had told me right at that moment, threatenings, I'd probably accepted because my beliefs and my sincerity and my knowledge wasn't strong enough to give me the courage to say, and inspiration to say, "Well, I'll die before I do this."

Judge Grauman: To try to pinpoint it, when, in your own mind and your own heart and your own conscience did you determine that you were a conscientious objector and therefore, were opposed to entering the military [365] service?

The Witness: Well, I would say truthfully, the onliest time that I really thought about it—the onliest time that I was conscientious that I would have to make a decision was the first time that they mentioned going to take a physical my first—the first time I had to go get tested.

Cassius M. Clay, Jr.—Registrant—(By the Court)

Judge Grauman: There are people who are conscientious objectors who are not subject to military service, aren't there?

The Witness: Well, I understand that there are people who—could you repeat that question, sir?

Judge Grauman: Aren't there people who are conscientious objectors who are not subject to military service?

The Witness: Well, I understand that they do have laws that there are people who are conscientious objectors but they don't have to carry guns. They could either wash dishes, or be—

Judge Grauman: You misunderstand me, sir. People who are beyond the age limit or people who are physically incapacitated who are conscientiously objecting to any war or any military service; aren't there people [366] who—many people who are not subject to military service who are conscientious objectors?

The Witness: Well, I really don't know, sir, if I understand the question that good.

Judge Grauman: Don't you have people of the Muslims who couldn't be called into military service under the existing law because of their age and so forth?

The Witness: Oh, you mean ages; of being too old or too young?

Judge Grauman: Yes, sir.

The Witness: Well, I imagine the law has a certain age that you have to before they call you, or between an age where you are too old or either too young. If that's a law, that's true, not only Muslims, but anybody.

Cassius M. Clay, Jr.—Registrant—(By the Court)

Judge Grauman: If I understand you correctly, the first time you think in your own mind and conscience and heart you determined that you were a conscientious objector was when you were called for your first physical examination?

The Witness: That was the—I think, to be plain, what I just told you, if I remember, I said that was the first time that I realized that the [367] decision had to be made. I always believed it and felt it ever since I first heard the teachings, but I didn't have to explain it or even mention and I went for about—in '61 or '62, I went for about three and a half years, going to the meetings and believing this wholeheartedly, but I never even mentioned it to the press. It never got out so I never had a reason to make a decision until then.

Judge Grauman: Well, irrespective of making any decision, what was your sincere conscientious feeling; were you a conscientious objector or were you not?

The Witness: When, sir?

Judge Grauman: Long before you were called for your physical examination.

The Witness: Yes, sir; at heart, yes, sir; but I had no reason to show it.

Judge Grauman: But you actually believed that you were a conscientious objector?

The Witness: I knew I was, sir, after I first heard the teachings of the—how the so-called negro was treated.

Judge Grauman: That was in 1961?

The Witness: Yes, sir.

Judge Grauman: Now, when did you first register for the military draft?

Cassius M. Clay, Jr.—Registrant—(By the Court)

[368] The Witness: I think at the age of eighteen we all have to sign—fill something out.

Judge Grauman: Yes, sir; and you were born when?

The Witness: January 17, 1942.

Judge Grauman: You registered in 1960; is that correct?

The Witness: If I was eighteen at the time; yes, sir.

Judge Grauman: Yes, sir; well, do you recall it being called to your attention that you had become eighteen and therefore, you should register?

The Witness: Yes, sir.

Judge Grauman: Well now, on the registration blank didn't you see a place there for you to sign if you were a conscientious objector?

The Witness: Well, I was not—

Mr. Covington: (Interrupting) May I—excuse me; may I help?

Judge Grauman: Yes.

Mr. Covington: On that registration that question is not asked. It is later when the questionairre is filed; it comes later.

Judge Grauman: Yes, sir; you are [369] right.

Mr. Covington: Excuse me? . .

Judge Grauman: You are so right. You did fill out a questionairre after you registered?

The Witness: I was a Christian at the time, sir. I knew nothing about Islam or what I believed now. I was Cassius Clay. I wasn't Muhammad Ali. I had no knowledge of Muhammad Elijah or Islam and if you had drafted me that day I would have went.

Cassius M. Clay, Jr.—Registrant—(By the Court)

Judge Grauman: When you filled out the questionairre you were or were not a conscientious objector?

The Witness: Was that age eighteen?

Judge Grauman: Well, your questionairre was filled out after you registered. Do you remember when you registered, Mr. Clay?

Mr. Covington: You have your registration card, don't you?

The Witness: No, sir.

Mr. Covington: Oh, I see. I believe Your Honor, it may show on the cover sheet of the draft board file if you will look at the cover sheet.

Judge Grauman: It shows date of [370] registration as April 18, 1960. Date of mailing of the questionairre, they have 3-2-61, and 2-2-61. I am looking for the questionairre. The file isn't in sequence. Well, did you ever at any time, Mr. Clay, until after you had been reclassified, ever indicate to the—

The Witness: (Interrupting) Excuse me, sir; excuse me. I mean not to be disobedient, but I know you are a law, a judge, and I just want to say that it's—the world do know and recognize me as Muhammad Ali and I was just wondering, do I have to be referred to as Clay?

Judge Grauman: No, sir; that is the legal name you were registered under.

The Witness: Registered; oh, I understand.

Judge Grauman: All right, sir; did you ever at any time until you were reclassified from deferred service so that your classification would subject you to be called for service, did you ever advise the Board that you were a conscientious objector?

Cassius M. Clay, Jr.—Registrant—(By the Court)

The Witness: You don't mean in 1960 when I was eighteen; you mean the first time—

Judge Grauman: (Interrupting) No, I mean when—how many times were you called?

[371] The Witness: The first time is when I was turned down.

Judge Grauman: Yes, sir.

The Witness: You mean that time?

Judge Grauman: Yes, sir; and what year was that?

The Witness: I think that was some time around 1964 when I was training for the Liston fight; about '64—a few weeks before the Liston fight, I think.

Judge Grauman: Yes, sir.

The Witness: I didn't tell them that I was a conscientious objector, but I did have a discussion with the local Miami official where I wrote Cassius X. on the paper. He asked me why that was and I explained it and the religion, I wrote Islam instead of Christianity, and the nationality, I wrote Asiatic Blackman instead of negro, and he called me to the back room and he gave me a list of about three hundred something which looked like lists of organizations and said, "Do you belong to any of these? They are subversive groups," or something like that, and I said, "I don't belong to none of them. I'm a Muslim," but he didn't have Islam on that list.

Judge Grauman: Yes, sir; but did you [372] go through the physical examination and did you give them whatever information that they requested of you at the time you were called for your physical examination?

Cassius M. Clay, Jr.—Registrant—(By the Court)

The Witness: I answered everything that the law required me to answer, but as I said earlier, the name, the religion and everything was different.

Judge Grauman: Why didn't you tell them at that time if you were conscientiously a conscientious objector, why didn't you tell them at that time that you were—under the law, couldn't be called into military service if you were a conscientious objector and that you were a conscientious objector?

The Witness: Well, I've been told by my attorney, Mr. Hayden Covington that that was a mistake, that I should have then, but at the time I was about two weeks from the Liston title fight and my manager, Angelo Dundee, Chris Dundee, Milt McDonald, who had invested about $650,000 in the fight, plus many closed circuit T.V.'s were sold out throughout the country, and it was arranged as the biggest fight in all history with Sonny Liston, and I was so disturbed, and working under pressure training for the fight, until I just—all I had on my mind was to obey the law, fill it out, what they had [373] for me to do, and still, I put my name down Cassius X, and I put down I was a Muslim, and I put for religion I was a Muslim—Islamic; I'm no longer Christian, but at the time I saw no need to being truthful, and immediately after that, I'm sure that millions of whites and people who had invested—not me, I fear nothing for money, but they had lost, or they would have lost at least three or four million dollars if I did that, looking back on it, but at the time this wasn't in my mind, at the time I did it, and I was under—just under a strain of the fight and I just filled the thing out and then walked out.

Cassius M. Clay, Jr.—Registrant—(By the Court)

Judge Grauman: Did you understand that if you passed the physical examination that you would be called into military service?

The Witness: Yes, sir.

Judge Grauman: But you said you were under such a strain that you didn't think of calling to their attention at that time that you were a conscientious objector?

The Witness: Well, I immediately—I didn't have much time to worry because they said immediately I had failed the test, but a reopening was going to be held here in Kentucky, which I failed again.

Judge Grauman: Immediately; how [374] long after you took the test?

The Witness: I believe a week or so, two weeks, it seemed like, before I—it was a little after I had beat Liston.

Judge Grauman: Yes.

The Witness: I heard that I failed the test.

Judge Grauman: But after you beat Mr. Liston, were you under any pressure or tension?

The Witness: Yes, sir; because I announced to the world that I was a Muslim then. It was announced to the world then. It was just told to the Board of Miami at the time. They knew I was, but it was quiet.

Judge Grauman: Did you make any announcement that you were then a conscientious objector?

The Witness: No, sir.

Judge Grauman: When is the first time that you ever made an announcement that you were a conscientious objector?

Cassius M. Clay, Jr.—Registrant—(By the Court)

The Witness: I never announced not even up to this date yet that I was a conscientious objector. It was only found out when it was told here in Louisville when my lawyer Ed Jockell filed the papers, and [375] then it was the Board who talked then, and Mr.—I forget his name, but he is the one who said it. I've never outright disrespected the American Government or my draft board by blasting off and bragging and hollering about I'm a conscientious objector. I've never done that.

Judge Grauman: But didn't Mr. Jockell, acting as your attorney under your authority and direction, didn't he present to the draft board and also to the appeals board the claim that you were a conscientious objector?

The Witness: Yes, sir, he did.

Judge Grauman: Well, that was all done with your approval?

The Witness: Yes, sir.

Judge Grauman: Well then, that's what I am trying to get at because the whole question is the sincerity of your claim. I'm trying to get the fact—the first time that there was ever any statement made with reference to your being a conscientious objector—the first time the statement was ever made to the board was after you were reclassified; is that right or wrong?

The Witness: Yes, sir; let me see; the first time I failed I had no need to say anything. They said I wasn't fit. The second time—excuse me; I took [376] the test in Kentucky and they advised me and said I wasn't fit. Then, when they reclassified me I came out with that outburst that was controverse

and then my lawyer went in with the conscientious objector bit and then it was known then.

That was the first time it was known was when he put it in, but I have no need—excuse me, I have no need the first two times that I was called up to, because they never accepted me, but I'm sure that if they had I—as a matter of fact, Allah is my witness here that if they had called me when I was in Miami and I had passed the test then I would have had to do—just say I'm a conscientious objector, but I know nothing about the law and if I knew the right procedures at the time I would have moved accordingly, but I'm new—I'm learning each day about how this appeal and things go, but I didn't know at the time. I had no idea how they worked.

Judge Grauman: Now, you made a statement earlier that you were offered large sums to take a movie part?

The Witness: Yes, sir.

Judge Grauman: And you declined them?

The Witness: Yes, sir. My managers, [376] Bill Faversham of Brown-Foreman Distilling Company could tell you, and Car Davidson of Wyatt, Grafton in the M.E. Taylor Building, and also lawyer Gordon Davidson and Arthur Grafton, they all have the records of monies that we have had to turn down because I couldn't be in movies with women and things that they had set up, and represent and act and me Muslim too, which wouldn't allow me, and also rock and roll records that could have netted easily five hundred thousand, but the type of love song records that I was singing would ruin me as far as being a Muslim minister is being concerned because

we preach against this type of life so therefore, we have to turn it down.

Judge Grauman: According to a statement appearing in this resume of the F.B.I. you are opposed to violence.

The Witness: Yes, sir.

Judge Grauman: Are you opposed to going into non-combatant service where you would not be connected with any violence, but where you would be helping to administer to injured people?

The Witness: Sir, I said earlier and I'd like to again, to make that plain, that it would be no trouble for me to accept conscientious objector on the basis that I'll go into the Armed Services boxing exhibitions [378] in Viet Nam, or traveling the country at the expense of the Government or living in the easy life and not having to get out in the mud and fight and shot and if this—if I could do this, or if it was something I wanted to do, or was in my heart to do if it wasn't against my conscience to do it, I would easily do it. I wouldn't raise all this court stuff and I wouldn't go through all of this and lose and give up the millions that I gave up and my image with the American public that I would say is completely dead and ruined because of us in here now, and so I wouldn't turn down so many millions and jeopardize my life walking the streets of the South and all of America with no bodyguard if I wasn't sincere in every bit of what the Holy Qur'an and the teachings of the Honorable Elijah Muhammad tells us and it is that we are not to participate in wars on the side of nobody who—on the side of non-believers, and this is a Christian country and this is not a

Muslim country, and the Government and the history and the facts shows that every move toward the Honorable Elijah Mumammad is made to distort and is made to ridicule him and is made to condemn him and the Government has admitted that the police of Los Angeles were wrong about attacking and killing our brothers and sisters and they were wrong in Newark, New Jersey, and they were wrong in Louisiana, and the outright, every day [379] oppressors and enemies are the people as a whole, the whites of this nation. So, we are not, according to the Holy Qur'an, to even as much as aid in passing a cup of water to the—even a wounded. I mean, this is in the Holy Qur'an, and as I said earlier, this is not me talking to get the draft board—or to dodge nothing. This is there before I was borned and it will be there when I'm dead and we believe in not only that part of it, but all of it.

Judge Grauman: In your training to become the heavyweight champion of the world, were you taught to try to strike your opponent in such a way as to put him out of commission?

The Witness: Well, I've never really been taught. You can look up Joe Martin, my local boxing trainer here and you can look up Fred Stoner, the negro trainer who used to train at Grace Community Center and they will tell you that and Angelo Dundee, my trainer now; I've never been taught to hit a man direct on no one certain point. No one has ever taught me how to knock a man out and in my professional and amateur record, comparative of fights that I have had, none has really ended as knockouts. Sonny Liston, now, that fight was really

a surprise. I couldn't see it; the fans couldn't see it. It was a lucky punch, and Bryan London was hit with about—he [380] admitted it was not one knockout punch, but it was about twelve rapid punches out in concession, one behind another, but when I go in a ring, my intentions is not to be violent in the way of fighting to kill, or going to war, or hurting no one physically; it's not my faith, and we have a referee in the ring, and I'm known as a scientific fighter and as a fast, classy boxer, and we have three judges and we have an ambulance and we have doctors and we are not one nation against another or one race against another or one religion against another. It's just the art of boxing, and more people get killed in at least ten other sports than they do boxing, but I'm not—I don't consider myself a violent man because next month I will be in the ring with Carl Mildenberger of Germany, prancing and dancing and moving and jabbing and if he hit me low, he'll—points will be taken away and in a war and shoot, you kill, you fight and you kill babies and you kill old ladies and men and there's no such thing as laws and rules and regulations.

Judge Grauman: Don't you use violence in boxing?

The Witness: Mentally, some fighters are violent; mentally, some fighters goes in the ring angry and they have a grudge and they are violent in their approach towards a fellow and many of them lose their [381] head and get beat, but I never get violent. I never lose my head and I'm known for being a calm, cool boxer and I never feel as though I'm

violent and I never fight and act like I'm violent.

Judge Grauman: Are your blows gentle blows or are they blows of violence?

The Witness: Well, I don't consider them blows of violence, not me; I don't consider them blows of violence. Now, football players, they—they elbow each other and they run over each other and they cleat each other and break each other's backs and they are paralyzed, and I don't think that's referred to as intentionally going out to do violence, and as far as hitting a man is concerned, my intention is not to really hurt no one. It's not my intention, but I think when you're violent and in war it's your intention to kill and to hurt and put the other man out.

Judge Grauman: If you are in non-combatant service you have no intention to hurt anybody, do you?

The Witness: Yes, sir, but then sir, that goes back to where we discussed it twice about the Holy Qur'an as far as aiding or participating in any way and as far as the Holy Qur'an and Allah's messenger tells us [382] and it's not something I'm making up and want to believe.

Judge Grauman: From your previous testimony I understand that you regard the Honorable Elijah Muhammad as the spiritual leader of the Nation of Islam?

The Witness: Yes, sir; we regard him as the messenger of Allah, Almighty God, whose proper name is Allah, to us the Lost Found Members of the Nation of Islam who are called negroes, and also a divine spiritual leader and teacher; yes, sir.

Cassius M. Clay, Jr.—Registrant—(By the Court)

Judge Grauman: You regard yourself as an active, sincere, devoted member of the sect?

The Witness: Yes, sir; I—I regard myself as an acting, sincere and devoted member and the Honorable Elijah Muhammad also has made statements to various people who has been interviewing him that I am also not only a sincere follower and believer, but a minister and an international ambassador.

Judge Grauman: Your whole heart and mind are involved in the principles of the Nation of Islam?

The Witness: Yes, sir.

Judge Grauman: Is it or not true that any male member of the Nation of Islam automatically becomes a member of the Fruit of Islam?

[383] The Witness: Well sir, I'm not a Captain. A Captain, such as Samuel here in the audience, could more explain that, but I'm sure that he is automatically one of the Fruit of Islam when he is officially registered as a Muslim and accepts his "X".

Judge Grauman: Do you rely completely on the Honorable Elijah Muhammad for your spiritual counseling?

The Witness: Well, sir, I would say many places I'm not where I can see—come in contact with the Honorable Elijah Muhammad neither by phone nor in person, but it's his teachings and the understanding that we have of his teachings that we solely and one thousand per cent rely on; yes, sir.

Judge Grauman: And has he also advised you that the teachings of the Nation of Islam preclude any member from participating in any form in the military of the United States?

The Witness: No, sir, he never.

Judge Grauman: He has never discussed that with you?

The Witness: No, sir; not in the way where he has advised me to, or even as much as hinted to me that we do not take part in wars. He—he, himself, I've [384] heard him say on many subjects—not war—that if he advised or even aided his followers, he would not know who is sincere or not. So, this is the last thing he would do in any way is to advise or try to strengthen us spiritually in any way on the stand that we have to make.

Judge Grauman: Well, if he directed you to fight in any war, would you follow his command?

The Witness: If the Honorable Elijah Muhammad—

Judge Grauman: Yes.

The Witness: (Continuing)—looked me in my face and he who I believe is directly from Allah, Almighty God Allah, and if he looked at me and advised me, which I'm sure he wouldn't, to fight in any kind of war, if he advised me to I would.

Judge Grauman: And if he would direct you to fight for the United States you would fight?

The Witness: Well, I would—I can speak for him right here and now, that I know he would not say anything like that if he is truly following the Holy Qur'an and what he teaches us that God taught him.

Judge Grauman: But if you were, or if he did so direct you, you have such confidence in him—

The Witness: (Interrupting) Yes, [385] certainly.

Judge Grauman: (Continuing)—that you would do what he directed you to?

Cassius M. Clay, Jr.—Registrant—(By the Court)

The Witness: That's a hypothetical question and I'm saying this; I don't know what hypothetical mean, but I do hear many people say things that sounds kind of impossible, or something is not true.

Judge Grauman: Well, to assume something; that is what a hypothetical question is; to ask you to assume certain things; and what would your answer be if those things existed.

Now, you are right about it being a hypothetical question. If you assume that he would direct you to fight for the United States, the question was would you fight for the United States?

The Witness: Well, first, I would like to say this for myself. I don't believe that, and I would actually say that I could guarantee you my life that he won't advise me to do something like that, but I would say under that, just answering your question the way you are asking, if he did, yes.

Judge Grauman: Now, Mr. Covington has asked you with reference to certain things in the resume of the F.B.I. report. Now, on page twenty-two there is a [386] statement that the nation of Islam was characterized as an all negro organization which was originally organized in 1930 in Detroit. Members believed that the so-called negro slaves of what was referred to as white devils in the United States. Is that correct?

The Witness: Is it correct what?

Judge Grauman: That members believe that so-called negroes or slaves of the white race, referred to as white devils in the United States.

The Witness: Well, we do believe, taking your question like you gave it to me, first of all, number

one, we do believe that the so-called negroes are now economically and mentally are slaves of the white race and we do believe that the so-called negroes, physically, mentally and economically, a hundred or four hundred years ago, and for the last three hundred of those years we were physically, slaves and history shows and proves it white literature, that it's true. Then, as far as the devil is concerned, I answered that a minute ago by saying that it's not just from what I understand from the teachings of the Honorable Elijah Muhammad, it's not just the color of a man's skin that makes a devil. It is the deeds and work that he do, and our leader teaches that the way the so-called negro has been treated, lynched, burned, raped, tarred and [387] feathered for four hundred years and today, still, being shot and killed in front of news medias, and the people who are practicing these acts on us are doing the works of a devil. So, that's what he teaches us and the Honorable Elijah Muhammad is the teacher of Almighty God, Allah, who taught him that these certain natured people who was opressing his people were devils and this is not me. I'm not—I didn't know it six years ago, and the Honorable Elijah Muhammad teaches us you do not know until the coming of Allah and I think that if anyone is a judge of kinds of white devils it should be Honorable Elijah Muhammad and he should be brought before the American Government in Washington, or on nation-wide T.V. and made to prove it, buf I—that part of his teachings is just a grain of sand in a desert compared to what he teaches, but we believe all he have teach and this happen to be one segment

of what we believe, but he is the preacher of it and he is the one that I think should be confronted on why does he teach it to be proven wrong. I'm just a follower and believe what he teach.

Judge Grauman: Now, the practices which have heretofore been mentioned, the Muslim engages in military drill and engaging in judo training; do you approve of those practices?

[388] The Witness: Well, I think the Captain explained that we—that this is a part, and I would like to add to what he said—this is a part in the Holy Bible that teaches that though I dwell in the valleys of the shadow of death I fear no evil, and we are taught by the Honorable Elijah Muhammad that though one dwells more in the shadow of death and the so-called negro is here in the wilderness of North America, so therefore, by Allah, God, teaching the Honorable Elijah Muhammad, and by Allah teaching us to be peace loving people, and by Allah teaching our leader to teach us not to be aggressors but to defend ourselves if attacked, so therefore, since we are so-called negroes, the same as Martin Luther King's followers, the same as Adam Clayton Powell's followers, the same as Ralph Bunch's followers, and Roy Wilkins, James Meredith, and since we all look alike, we can easily be mistaken for one and attacked. So, by our teaching and by we believing in God, whose law is self-preservation, we are taught not to be the aggressor, but defend ourselves if attacked and a man cannot defend himself if he knows not how, and we are taught that not only America, but all countries, all civilized governments have armies and have guns

around their shores, not necessarily to attack or to be the aggressor, but to defend America or our country or [389] whatever it may be if we are attacked. So, we, the Muslims to keep in physical condition, we do learn how to defend ourselves if we are attacked since we are attacked daily through the streets of America and have been attacked without justification for the past four hundred years.

Judge Grauman: Now, you heard the statements here about preparation for the War of Armageddon; what is your viewpoint as to why you are preparing for that war?

The Witness: Well, the Honorable Elijah Muhammad teaches us and I heard him tell Martin Luther King at his dinner table and I have heard him tell Stokley Carmichael at his dinner table and I've heard him tell representatives of Clayton Powell, and representatives of them all that when you are talking about violence you are talking about taking law in your own hands and he says it is impossible for a slave to prepare for a war with his master. It is impossible for us to prepare for Armageddon since we don't make bullets, we don't make guns, we don't make—don't control no food. If we had weapons, if we had machine guns, or that, but we can only fight for so long because we don't control the food factories, so it's foolish for us, or for an intelligent Government to think that we, the ten per cent of America, is hiding in some secret little [389] meeting places in this country preparing to fight these atomic bombs, these jets, these helicopters and all type guns you have that haven't been revealed to the public yet. So, we are not preparing in the way

that whoever wrote that is trying to make it look. We are only preparing for the war of Armageddon divinely. We talk that the battle will be between good and right, truth and falsehood, and we are taught that the battle will be between God and the Devil and so therefore, we hope and pray that we are still here in good standing with the Honorable Elijah Muhammad, for when that hour and day come that we can be told what side to go to. We are trying to be prepared where we can go on the right side, whether it is leaving the country in a helicopter or whether it's leaving the country on a ship, or whether it's leaving the country in those flying saucers that they see over America, and we just hope that we are spiritually and physically and internally and mentally and morally able to get on the side of Allah and the Honorable Elijah Muhammad when Armageddon start, but we can't as much as—our damage, physically, as far as us putting it out in a war would be like a bean shooter running up against a big German tank, so we are only preparing for Allah in spirit—in a spiritual way.

Judge Grauman: In other words, the [390] explanation is there would not be any physical fighting if there was a war of Armageddon?

The Witness: When there is a war of Armageddon that we are talking about there will be a fight.

Judge Grauman: Would you participate in it?

The Witness: No, sir; we won't be participating.

Judge Grauman: In other words, the military training you have would not be military training to engage on one side or the other in the war of Armageddon then?

Cassius M. Clay, Jr.—Registrant—(By the Court)

The Witness: Well, I'm sure that if it will be a physical war we will look foolish with what we call military training, which is judo and learning to wrestle and box and running and in the war of Armageddon which will be a real nuclear war and nothing that judo can do and nothing that karate can do or take part in, so therefore, this is for our health and self defense while we are here if we are attacked, but when Armageddon itself comes it will be physical; God will be physical; his equipment will be physical and the enemies of God, their equipment will be physical, but we ourselves won't participate in [391] putting out physical energy ourselves.

Judge Grauman: All right, Mr. Covington.

Mr. Covington: Yes, Your Honor; now, if it please Your Honor, at this point, we desire to submit a letter of transmittal of various identifying documents for what they may be worth; signed statements by members of the Islamic Faith and also non-Islamic members, as to the bonafides and good faith and consistent conduct of the Registrant, Muhammad Ali, to Your Honor for what it may be worth and if I may, I will call them off quickly;

My letter of transmittal identifying them, a statement from Muhammad Ali, dated August 15, 1966, addressed to the Appeals Board of the Department of Justice;

A statement from the Honorable Elijah Muhammad dated July 28th, addressed to the same, the Selective Service System and the Department of Justice;

A letter of August 1, 1966, addressed to the same, signed by Mr. Chauncey Eskridge on the law stationery of his firm in Chicago;

A statement by Dr. Charles Williams, addressed to the same, dated August 1st;

A statement signed by Robert "X" Thompson and a large number of other people of the Los Angeles Muhammad [392] Mosque No. 27;

A statement signed by Charles 18X Collins of Los Angeles Muhammad Mosque No. 2, and several others;

A statement made by the Presiding Minister of Mosque No. 27, dated July 29, 1966;

A statement made or signed by Kenneth C. X. Jefferson, Muhammad Mosque No. 1, Detroit, Michigan, addressed to the same;

A statement dated July 29th from Muhammad Mosque No. 1, addressed to the same, signed by Philbert Omar;

A statement addressed to the same from Muhammad Mosque No. 12, Philadelphia, Pennsylvania, July 29th, signed by Chauncey X. Lassiter and a number of other persons;

A statement of Jeremiah Shabazz, dated July 29, 1966, to the same;

A statement by Darlene X. Jones, dated July 29, 1966, addressed to the Selective Service System and the Department of Justice;

A statement of July 29th, from Muhammad Mosque No. 3, Milwaukee, to the same, signed by Clarence X Reed and others;

A statement by Henry X. Allen, Presiding Minister of Mosque No. 3, in Racine, Wisconsin, addressed to the same;

A statement signed by Milton X. Howard, dated July 29th, 1966, addressed to the same and signed by him [393] only.

A statement signed by Lonnie Shabazz, dated July 29th of Muhammad Mosque No. 4;

A statement dated July 29th, addressed—well, signed, rather, by Delta X. Pitts, addressed to same;

A statement, and I'm going to save the time of the reporter, now, signed by Portia Pasha and a number of other persons;

A statement signed by David X. Bradley and a number of other persons from Cincinnati, Ohio;

A statement signed by David X. Bradley, dated July 29th;

A statement signed by Samuel X. Saxon, and others from Miami;

A statement signed by Ruby 2X Saxon, dated July 29, 1966, and others;

A statement signed by William Lucius Bey dated July 29, 1966;

A statement signed by William 7X Strand and others of Boston, Massachusetts;

A statement signed by Samuel Gibson, or rather James Gibson and a number of others;

A statement signed by Don X. Straughter and a number of others;

A statement of Issiah Karren dated July 29th of [394] 1966.

A statement signed by Junius X. Wood, dated July 29, 1966.

A letter signed by James 4X Pollitt, and others of Baltimore, Maryland;

A letter, James McAllister and others of Baltimore, Maryland;

A statement by Louis Farrakhan, Presiding Minister, Mosque No. 7.

A letter signed by John Ali, of Mosque No. 2, Chicago, Illinois; the secretary—International Secretary of the Muslim organization;

A statement of Al Mann, who incidentally is a professional basketball player and Muslim of Chicago, Illinois, dated August 1, 1966;

A statement dated August 1, 1966, signed by Eugene Majied, and these we submit to the Honorable Hearing officer for what they may be worth in connection with the disposition of this matter.

Also, may I say, Your Honor, that we are grateful to you for the patience that you have shown with us this afternoon and this is the last of our submissions.

Judge Grauman: Do you care, orally or in writing to say anything else?

Mr. Covington: Well, Your Honor, I [396] feel that there are some matters that I would like to submit in a letter, if I may, when I get back.

Judge Grauman: You will be accorded that privilege; as soon as you can expeditiously do it.

Mr. Covington: I will do it very promptly. I want to cite Your Honor some cases by the courts that relate to the way that this type of material that I took exception to on the newspaper thing is dealt with. I have a 10th Circuit Court of Appeals opinion and I don't have the citation at hand that I will write up and give you.

Judge Grauman: All right; is there anything else you want to offer in further support of your position?

Mr. Covington: Well, I just have nothing else to say except that I am very pleased that I have ap-

peared before you and secondly, I am quite proud to be representing this Registrant.

Judge Grauman: Mr. Covington, as I understand, the sole question under the law—

Mr. Covington: (Interrupting) Is one of sincerity.

Judge Grauman: And the burden is on the Registrant.

[397] Mr. Covington: That right.

Judge Grauman: All right; if there is nothing further, we will adjourn.

* * * * * *

STATE OF KENTUCKY,
COUNTY OF JEFFERSON, *ss.*:

I, CHARLES L. STERLING, Notary Public, State of Kentucky at Large, hereby certify that the foregoing Transcript of Proceedings was taken down at the time and place stated in the caption; that the said transcript of proceedings was taken down by me in stenographic notes and thereafter reduced under my supervision to the foregoing one hundred twenty-nine typewritten pages; and that said typewritten transcript is a true and accurate and complete record of my stenographic notes so taken.

I further certify that I am not related by blood or marriage to any of the parties hereto and that I have no interest in the outcome of the captioned matter.

My commission as Notary Public expires April 2, 1970.

Given under my hand, this the 23rd day of September, 1966, at Louisville, Kentucky.

.....

Notary Public, State at Large.

Department of Justice Advice Letter

[209]

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

[Emblem]

Address Reply to the
Division Indicated
and Refer to Initials and Number

Nov. 25, 1966

Chairman, Appeal Board
Western District of Kentucky
Selective Service System
1405 West Broadway
Louisville, Kentucky 40203

Re: Cassius Marcellus Clay, Jr.
Conscientious Objector

Dear Sir:

As required by Section 6(j) of the Universal Military Training and Service Act, as amended, an inquiry was made by the Department of Justice in the captioned matter and an opportunity to be heard on his claim for exemption as a conscientious objector was given to the registrant by Judge Lawrence S. Grauman, a Hearing Officer for the Department of Justice.

The information obtained from the inquiry and considered by the Department of Justice in arriving at its recommendation is contained in the Resume of the Inquiry attached hereto and made a part hereof.

Registrant was born in Louisville, Kentucky on January 17, 1942. He graduated from Central High School in Louisville, Kentucky in June 1960. His father is a

Methodist. His mother is a Baptist and the registrant was reared in the Baptist faith until he became interested in the Muslim faith.

The Registrant registered for Selective Service on April 18, 1960. His local board classified him in Class I-A on March 9, 1962 but, following an Armed Forces physical examination, registrant was found not acceptable for induction under then current standards and was classified I-Y. At the request of the Department of the Army, [210] the registrant was ordered to appear for a further Armed Forces physical examination on March 13, 1964. He was again found not acceptable for induction under then current military standards and was again classified in I-Y on March 26, 1964.

Thereafter, I-Y registrants were considered for induction, without further physical examination, and on January 28, 1966 the registrant was found to be fully acceptable for induction into the Armed Forces by the Commander of the Joint Examining and Induction Station at Louisville, Kentucky. The local board then classified the registrant I-A on February 17, 1966. On February 18, 1966, the local board sent him a SSS Form 150, Special Form for Conscientious Objector. He executed and returned the form to the local board where it was received on February 28, 1966. Registrant was granted a personal appearance before the local board, and following that appearance on March 17, 1966, the board retained him in Class I-A. He appealed on March 28, 1966.

Registrant had not claimed conscientious-objector status prior to February 1966. In his Classification Questionnaire, received by his local board on March 13, 1961, the registrant made no claim of conscientious objection, and he answered "None" to the questions relating to status as

a minister or student preparing for the ministry. His occupation was given as professional boxer and he gave as prior work experience, "Wining the World Light heavy Weight Olympic Boxing Champion at Rome." [Sic]. In his Special Form for Conscientious Objector, filed in February 1966, as noted above, he claimed that he became a member of Muhammad's Mosque No. 2 in Chicago, Illinois by confession of faith in January 1964, and also claimed membership in Muhammad's Mosque No. 29, Miami, Florida. He also claimed conscientious objection and exemption from combatant and noncombatant military training and service. His signature to that form appears as "Muhammad Ali, Slave Name Cassius M. Clay, Jr."

[211] Annexed hereto and made a part hereof are Exhibits A-1 through A-36;[1] Exhibit B, the Newspaper, *Muhammad Speaks*, issue of August 26, 1966; Exhibit C, the Holy Qur'an, translation by Maulana Muhammad Ali, 1963; and Exhibit D, the book "Message to the Blackman" by Elijah Muhammad, 1965. These exhibits were submitted to the Department of Justice Hearing Officer on behalf of the registrant by his counsel and identified on pages 125 through 128 of the transcript.

The registrant appeared before the Hearing Officer at Louisville, Kentucky on August 23, 1966 accompanied by counsel, registrant's mother and father, an assistant minister of the Muslim organization and his tax attorney. The proceedings, which largely consisted of questions propounded by registrant's counsel, were recorded and a copy of the transcript is submitted herewith. The registrant ac-

[1] These exhibits deal primarily with the ministerial claim but were received and considered by the Hearing Officer for whatever bearing they might have upon registrant's conscientious-objector claim only.

knowledged having received a copy of the resume and his objections thereto are contained in the transcript. The original of the transcript has been furnished to registrant's counsel, Mr. Hayden C. Covington, 34-44 76th Street, Jackson Heights, New York, N. Y. 11372. Mr. Covington has requested that registrant's mail be sent to him at the above address.

The Hearing Officer reported that the registrant stated his views for about one hour in a convincing manner; that he answered all questions propounded to him forthrightly; that there was no evidence of trying to [212] evade the Hearing Officer's questions; and that he was impressed by the registrant's statements. The Hearing Officer considered a letter from the registrant to his local board dated February 14, 1966 and quoted the following passage therefrom:

> "3. That I am a devoit Muslim and a follower of Islamic religious faith under the discipline of the prophet Elijah Muhammad. To bear arms or kill is against my religion and I conscientiously object to any combat military service that involves the participation in any war in which the lives of human beings is taken. This I do not believe to be rightous. This has been my faith upward of five years." [sic]

The Hearing Officer reported that the registrant's tax attorney, who is not a member of the Muslim organization but has known registrant since 1964, and another witness, who is an assistant minister in the Muslim organization, stated that the registrant had acted as a minister in the field for the Muslim organization and they believed the registrant to be sincere in his conscientious-objector claim. Registrant's mother, who is still a Baptist, testified that in 1960 or 1961 registrant became interested in the Muslim

faith. Both registrant's mother and father stated that the registrant had told them that he would die for his faith.

The Hearing Officer believed that the resume indicated that the registrant was of good character, morals and integrity. He pointed out that a representative of Central High School, which the registrant had attended, expressed the opinion, page 2 of the resume, that the registrant is not sincere in his conscientious-objector claim; that a [213] representative of the Department of Recreation, Louisville, Kentucky, who was closely associated with the registrant until registrant was 18 years of age, page 3 of the resume, believed that the registrant's whole life was boxing and becoming a boxing champion and he did not believe that the registrant is sincere in his conscientious objection.

In considering the resume, the Hearing Officer appeared to give great weight to the statement of an attorney for the group in Louisville sponsoring the registrant's professional boxing career,[2] and also a statement by a member of the

[2] With respect to that statement, the Hearing Officer observed that the attorney had suggested in 1964 that the registrant join the reserves rather than wait to be drafted and had explained the danger of the registrant's professional boxing career in claiming conscientious objection and [214] affiliating with the Muslims; that the registrant had replied that he was going to follow the dictates of his conscience and claim conscientious objection; that the registrant was prevailed upon not to file his conscientious-objector claim at that time, but the attorney was convinced that the registrant would have filed his conscientious-objector claim at that time if he had not failed to pass his Armed Forces physical examination. The attorney stated that the registrant had been warned that his affiliation with the Muslims would cost him one million dollars and that the registrant had replied that his religion meant more to him than money and whether or not the public might like him. The Hearing Officer reported that the attorney related an incident which occurred in January 1966 in which the registrant was offered $300,000 to play the title role of a movie to be made in Hollywood based upon the life of Jack Johnson, the

sponsoring group.[3] Neither of them testified at the hearing. The Hearing Officer reported that the attorney was known personally to the Hearing Officer and he knew him to be a man of unimpeachable character who stands high in his profession. He stated that he does not personally know the sponsor but that he knows the reputation of the sponsor in the community and that he is regarded as a man of outstanding character. He reported that the attorney and the sponsor would no longer have any financial interest in the registrant's professional career when the existing contract with the sponsors expired, and that the registrant had announced to the press that he would not renew the contract with the present sponsoring group. The Hearing Officer stated that he knew of no reason why complete credence should not be given to the opinions of these two individuals to the effect that the registrant is sincere in his conscientious objection.

[215] The Hearing Officer concluded that the registrant is sincere in his objection on religious grounds to partici-

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former heavyweight boxing champion; that the registrant turned down the offer because Jack Johnson, who married a white woman and had the reputation of being a heavy drinker and of poor character, stood for everything the registrant was against. The attorney expressed the opinion that the registrant sincerely believes that he is conscientiously opposed to military service.

[3] As stated by the Hearing Officer, that statement is to the effect that the sponsor expressed the opinion that Malcolm X was the individual responsible for registrant's becoming a Muslim; that the registrant had suffered heavy financial loss through his association with the Muslims; that he originally thought that the registrant claimed conscientious objection because he did not want to serve in the army, but that he is "becoming more convinced every day that the registrant is sincere in his claim and motivated solely by a conviction of conscience that he cannot participate in any matter involving killing."

pation in war in any form and he recommended that the conscientious-objector claim of the registrant be sustained.

It should be noted that while the resume statement of the attorney for the sponsoring group did, as noted by the Hearing Officer, express the opinion that registrant sincerely believes that he is conscientiously opposed to military service, the resume also reflects that the attorney believed that registrant would be sincere in his claim as a conscientious objector "to the extent that registrant can be sincere in a belief". The resume further reflects that the attorney "could not be sure how deep any human conviction goes with the registrant" and that he is "not certain as to what motivates the registrant in this respect." (Resume, page 5) The attorney added that in view of his past experiences with the registrant changing his mind, he would not be surprised "if a year from now the registrant becomes disenchanted with the Muslims and voluntarily joins the United States Marines." The member of the sponsoring group, it should also be noted, stated that "I'll go to my grave believing registrant basically is a good boy and was brainwashed first by his father and then by the Muslims." (Resume, page 7)

The registrant's claimed conscientious objections appear to be based essentially upon the teachings of the Nation of Islam as interpreted by Elijah Muhammad, and registrant's expressed objection to participation in the Vietnam war.

In his Special Form for Conscientious Objector, received by his local board on February 28, 1966, registrant stated that he became a member of the Nation of Islam in January 1964 by confession of faith; that he is a member, believer and follower of that sect (Series IV), [216] and

that he relies most upon the Hon. Elijah Muhammad of Chicago, Illinois for religious guidance (Series III).

In his personal appearance before his local board on March 17, 1966 the registrant stated among other things that his religion teaches its adherents not to take part in any way with infidels or any nonreligious group. He said that they pray five times a day facing the East; that they fight only in self-defense, not war; that their group has their own police force and no Muslim may carry any lethal weapon; and that Elijah Muhammad is their leader.

In paragraphs (4) and (5) of his letter dated August 15, 1966 to the Appeal Board, the registrant further expressed his reliance upon Elijah Muhammad when he said:

> "Spend time with Elijah Mumammad receiving his instructions and making notes of his orders to me as to how to more effectively and efficiently carry out my ministerial duties.
>
> "Spend time each day or evening before retiring studying the book by the Honorable Elijah Muhammad entitled 'Message to the Blackman' . . ."

In answer to a question by the Hearing Officer at registrant's hearing on August 23, 1966: "Do you rely completely on Honorable Elijah Mumammad for your spiritual counseling?" the registrant stated:

> "Well, sir, I would say many places I'm not where I can see—come in contact with the Hon Elijah Muhammad [217] neither by phone nor in person, but its his teachings and the understanding that we have of his teachings that we solely and one thousand percent rely on; yes, sir." (Transcript, page 116)

Department of Justice Advice Letter

Elijah Muhammad, whom the registrant listed as a reference as well as the person upon whom he relies most for religious guidance, is reported in the resume as stating that he is the spiritual advisor of the registrant, that he had explained the teachings of the Nation of Islam to the registrant, and had advised him that the teachings preclude any member of the Nation of Islam from participation in any form of military service "of the United States". (Resume, page 19) Similarly, other coreligionists stated, resume pages 20 and 21, that the Nation of Islam's religion prohibits service in the military "of the United States". These statements do not appear to preclude military service in any form, but rather are limited to military service in the Armed Forces of the United States.

Registrant introduced into evidence at the hearing two documents containing Elijah Mumammad's interpretations of the teachings of the Holy Qur'an, the newspaper *Muhammad Speaks* and the book, "Message to the Blackman". The newspaper *Muhammad Speaks*, issue of August 26, 1966, page 28, contains the following statement (which also appears in substantially the same form in "Message to the Blackman", page 164):

> "WE BELIEVE that we who declare ourselves to be righteous Muslims, should not participate in wars which take the lives of humans. We do not believe this nation should force us to take part in such wars, for *we have nothing to gain* [218] *from it unless America agrees to give us the necessary territory wherein we may have something to fight for.*" (Emphasis added.)

Both "Message to the Blackman" and *Muhammad Speaks* express essentially the view of the Black Muslims that the white man is their enemy, and that the black man should

disassociate himself from the United States Government and its institutions and secure an independent nation for the black man within the United States.

It seems clear that the teachings of the Nation of Islam preclude fighting for the United States not because of objections to participation in war in any form but rather because of political and racial objections to policies of the United States as interpreted by Elijah Muhammad.

Asked by the Hearing Officer, whether the registrant would fight in any war which Elijah Muhammad directed him to fight in, the registrant replied that if Elijah Muhammad:

> "looked me in my face and he who I believe is directly from Allah, Almighty God Allah, and if he looked at me and advised me, which I'm sure he wouldn't, to fight in any kind of war, if he advised me to I would." (Transcript, page 117)

The registrant testified as follows concerning his objections to participation in noncombatant service:

> "Sir, I said earlier and I'd like to again, to make that plain, that it would be no trouble for me to accept conscientious objector on the basis [219] that I'll go into the Armed Services boxing exhibitions in Viet Nam, or traveling the country at the expense of the Government or living in the easy life and not having to get out in the mud and fight and shoot and if this—if I could do this, or if it was something I wanted to do, or was in my heart to do if it wasn't against my conscience to do it, I would easily do it. I wouldn't raise all this court stuff and I wouldn't go through all of this and lose and give up the millions that I gave up and my image with the American public that I would

say is completely dead and ruined because of us in here now, and so I wouldn't turn down so many millions and jeopardize my life walking the streets of the South and all of America with no bodyguard if I wasn't sincere in every bit of what the Holy Qur'an and the teachings of the Honorable Elijah Muhammad tell us *and it is that we are not to participate in wars on the side of nobody who—on the side of nonbelievers, and this is a Christian country and this is not a Muslim country,* and the Government and the history and the facts shows that every move toward the Honorable Elijah Muhammad is made to distort and is made to ridicule him and is made to condemn him and the Government has admitted that the police of Los Angeles were wrong about attacking and killing our brothers and sisters and they were wrong in Newark, New Jersey, and they were wrong [220] in Louisiana, and the outright, everyday oppressors and enemies are the people as a whole, the whites of this nation. So, we are not, according to the Holy Qur'an, to even as much as aid in passing a cup of water to the—even a wounded. I mean, this is in the Holy Qur'an, and as I said earlier, this is not me talking to get the draft board—or to dodge nothing. This is there before I was borned and it will be there when I'm dead but we believe in not only that part of it, but all of it." (Transcript, pages 110-112) (Emphasis added.)

It is therefore our conclusion that registrant's claimed objections to participation in war insofar as they are based upon the teachings of the Nation of Islam, rest on grounds which primarily are political and racial. These constitute only objections to certain types of war in certain circum-

stances, rather than a general scruple against participation in war in any form. However, only a general scruple against participation in war in any form can support an exemption as a conscientious objector under the Act. *United States* v. *Kauten*, 133 F.2d 703.

The registrant has expressed his objections to the particular war in Vietnam. Following the reclassification of the registrant from I-Y to I-A on February 17, 1966, the *Chicago Daily News* quoted the registrant as stating, pages 26 and 27 of the resume:

> "I am a member of the Muslims and we don't go to no war unless they are declared by Ali himself. I don't have no personal quarrel with those Vietcongs."
>
> * * * * *
>
> [221] "Let me tell you, we Muslims are taught to defend ourselves when we are attacked. Those Vietcong are not attacking me. These Vietcong are fighting a very nasty war over there. There is a lot of people getting killed. Why should we Muslims get involved? Besides, I am fighting for the government every day. I am laying my life on the line for the government. Nine out of ten soldiers would not want to be in my place in the ring. It is too dangerous." [sic]

Questioned at the hearing whether he made that statement, the registrant admitted he had, although he stated that he had been condemned by Elijah Muhammad for making "such a wild boastful statement". (Transcript, pages 88 and 89)

A month after making the above quoted statement, the registrant also told his local board, according to its summary of his personal appearance, that he "objects to being

in service because he has no quarrel with the Viet Cong."

It would seem from these remarks made by the registrant immediately after his having been classified I-A in February 1966, that his claimed objections to military service are based in part upon an objection to fighting the Viet Cong, with whom he has no "personal quarrel", and to his objection to the Muslims getting involved in the Vietnam war.

Here again the registrant fails to meet the requirements of the Act. Neither the fact that he has no "personal quarrel" with the Viet Cong nor his related objection to the Black Muslims getting involved in the [222] Vietnam war constitute an objection which the Act recognizes. To qualify for exemption as a conscientious objector, the registrant's objection must be a general scruple against "participation in war in any form", not merely an objection to participation in a particular war. *United States* v. *Kauten*, 133 F.2d 703.

Moreover, the registrant has not consistently manifested his conscientious-objector claim. Such a course of overt manifestations is requisite to establishing a subjective state of mind and belief. As noted earlier, he made no conscientious-objector claim at all prior to being re-classified I-A in February 1966. Even after that event, the record of his efforts to have the local board reconsider his classification indicates that the registrant's primary concern was not his conscientious-objector claim, but the financial hardship which would result from his induction into the Armed Forces.

In his letter to the local board on March 17, 1966, registrant stated that his classification from I-Y to I-A is legally unjustified and imposes "grave hardship upon me as heavyweight champion of the world at now age 24."

Department of Justice Advice Letter

In another letter to his local board, dated April 16, 1966, registrant discusses financial obligations and commitments, including money which he owes the Louisville Sponsoring Group, which he made during the time he was I-Y and before he was classified I-A. He stated:

> "Two years is a very long time in the life of a heavyweight champ—from age 22 when I was classified from I-A to I-Y, and my present age 24 to age 26 I may never be able to overcome this time of loss of boxing sharpness and come back from the service to earn the kind of money [223] required to pay off these financial obligations, even though they may be abated during the time of military service. I would therefore be in hock for the rest of my life, whereas if I can get in a few more fights, which are lined up through the fall of this year, I should be able to settle these permanent financial obligations from the money I should get within this year, while I am at my peak of shape and am the Heavy weight champion of the World. A 6-month defense is necessary to retain the title."

In the same letter, he referred to the hardship points expressed in his prior letters of March 28, 1966 and February 14, 1966 and stated:

> "I press the hardship cause in two different aspects: (a) I am the sole support of my mother who is one of my dependants. (b) My wife I am required by Court decree to support in the sum of $150,000 in payments of alimony . . ."

The main thrust of registrant's letters to his local board following his reclassification from I-Y to I-A appears to be more of an argument for one of several classifications

other than I-A, rather than valid support of his conscientious-objector claim. In his 8-page letter of April 16, 1966, he devotes three and one-half pages to a discussion of why he should not have been classified from I-Y to I-A. He stated, among other things:

> "There is nowhere any indication that standards of the American Army combat [224] capabilities have been modified to make psychologicial rejects as 'myself' now acceptable as found under any applicable standards based or tested since my last rejection and my first classification to I-Y. If I was that bad and unfit then for the true reason given I should have been classified 4-F and not I-Y or I-A."

On page 8 of the letter the registrant protested that there was "every reason in my file on March 17, 1966 when I appeared before the [local board] to discuss my file and my religious beliefs and objections as contained in my conscientious-objection questionnaire, for the local board to have re-classified me I-A-O, I-O, I-W, I-Y, II-A and/or III-A." His last complaint was to the effect that "All this rush to make me I-A triggered a whole national mess which and wherein I became embroiled and made the target of politicians and super flag-wavers, causing my last fight a fortune in losses of revenue to me and the governments in taxes. I should be in Class III-A."

Registrant had legal counsel throughout the period of the correspondence with his local board referred to above.

It should also be noted that the registrant did not claim conscientious-objector status until after he had been reclassified I-A in February 1966, although in his testimony at the hearing he variously fixed the time when he became a conscientious objector as: 1) three weeks before the first

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Sonny Liston fight on February 25, 1964 (Transcript, page 96), 2) the hour when he first heard the teachings of Elijah Muhammad in November 1960 and 1961 (Transcript, page 96), 3) "the first time I had to go get tested" (Transcript, page 98), and 4) "after I first heard the teachings of the—how the so-called Negro was treated." (Transcript, page 100).

[225] He explained to the Hearing Officer that he did not claim to be a conscientious objector when he first became one because war was not pending at that time and he had nothing about war on his mind. (Transcript, page 97) But, a registrant has not shown overt manifestations sufficient to establish his subjective belief where, as here, his conscientious-objector claim was not asserted until military service became imminent. *Campbell* v. *United States*, 221 F.2d 454. *United States* v. *Corliss*, 280 F.2d 808, *cert. denied*, 364 U.S. 884.

The burden of clearly establishing his conscientious-objector claim is upon the registrant. *Swaczyk* v. *United States*, 156 F.2d 17, *cert. denied*, 329 U.S. 726. The Department of Justice concludes that this registrant failed to sustain that burden.

With due regard for the recommendation of the Hearing Officer, the Department of Justice finds that the registrant's conscientious-objector claim is not sustained and recommends to your Board that he be not classified in Class I-O or in Class I-A-O.

The Selective Service Cover Sheet in the above case is returned herewith.

Sincerely,

/s/ T. Oscar Smith
T. Oscar Smith
Chief, Conscientious-Objector Section

[226]

FBI Resume

Resume of the Inquiry
Re: Cassius Marcellus Clay, Jr.
Conscientious Objector

Registrant was born January 17, 1942 in Louisville, Kentucky. He is a member of the Nation of Islam.

A representative of Central High School, Louisville, Kentucky, advised that the registrant entered Central High School in the 10th grade on September 4, 1957, having completed the 9th grade at DuValle Junior High School. On March 31, 1958 registrant voluntarily withdrew from Central High School. No reason for the withdrawal is shown on the records but the records reflect that during the 1957-58 school year, registrant made poor grades. Registrant re-entered Central High School in September 1958 and remained until he graduated on June 11, 1960. He ranked 376 in a graduating class of 391. His average grades for the 9th, 10th, 11th and 12th years were 72.7. Registrant's IQ test score in 1957 was below average. Registrant's attendance at school was rather irregular. Registrant was rated as fair with respect to emotional control; he was rated fair as to leadership; above-average as to health; average as to intellectual ability, initiative, social attitude, effort, honesty, scholastic zeal. Registrant participated in tennis in 1958-59 and chemistry craft in 1959-60. This official advised that general information around the school was that registrant was primarily interested in boxing and not in school. He was an amateur boxer at the time he was in high school and participated in Golden Gloves activities. A teacher advised that he considers registrant's family a fine family and was particularly commendatory concerning the registrant's mother. Registrant's grand-

mother exerted a strong influence on registrant's family and she was an outstanding [227] woman. Registrant presented no disciplinary problem while attending Central High School. Registrant was a "happy-go-lucky" kid. Registrant's primary interest was in boxing. During registrant's school years there was never any reason to question his honesty and he was not the "pugnacious-type" individual. He had a likeable personality and was well-liked and respected by other students. This teacher characterized the registrant as an extrovert and his brother to be an introvert. Registrant was considered to be average with respect to religion. He never indicated that he had any interest in the Islam religion. This teacher believes registrant is sincere and honest with respect to his Islam beliefs and that "someone sold the registrant completely" with respect to the Islam religion. This teacher expressed the opinion that if the registrant has claimed that he is conscientiously opposed to military service this is a sincere claim and not for the purpose of avoiding military service. Another teacher recalled that during the high school years registrant was very well-liked by other students. During those years he was "a loveable boy—just a big good-natured kid." This teacher never observed any particular religious activities by the registrant. There was no indication that he was other than a normal high school student whose primary interest, however, was in boxing. This teacher advised that, in his opinion, the registrant has always been of good character with respect to matters of morals, integrity, and the like. Registrant never dissipated physically. He noted that during registrant's youthful years he was just a big good-natured boy and this teacher was convinced that he would have remained so to this date if someone, say, "of the Black Muslims had

not given him an injection of the hate stuff." This teacher expressed the view that the only way that he could give registrant credit for being sincere in a claim as a conscientious objector is to consider registrant as being exceedingly stupid. This teacher stated that he doesn't think that registrant is that stupid and therefore concludes that the registrant is not sincere in his conscientious-objector claim. He stated that he [228] could not reconcile registrant's profession as a heavyweight boxer with his conscientious-objector claim.

A representative of the Louisville, Kentucky Department of Recreation recalled that when the registrant was about 12 years of age he began participating in the boxing program of the Department. This official stated that he was very closely associated with the registrant until the registrant was 18 years of age. He stated that during the time that he was associated with the registrant he was a good, honest, clean-living boy. He never drank, smoked, ran around with girls or used profanity. His whole life was boxing and becoming a boxing champion. During this period of time the registrant did go to church and, although not an overly religious boy, did believe in an Almighty Being and lived accordingly. This official stated that he could not believe the registrant can be sincere in any claim that he is conscientiously opposed to military service. Such a claim just didn't square with his knowledge of the registrant during the time that he was in almost daily contact with him. He recalled that when the registrant registered with Selective Service he made no statement indicating that he was conscientiously opposed to such service. This person noted that he had heard that registrant's father disliked individuals of the white race. A business associate of the registrant in Louisville recalled

that when he first became acquainted with the registrant the registrant was 17 years of age. He was a polite young man with no known character defects with respect to such matters as morals, honesty and integrity. He recalled that when the registrant was 18 years of age it was suggested to him that possibly his career might be helped if he would join some type reserve unit of the military service and fulfill his military obligation in that manner rather than waiting to be drafted. Registrant did not want to do this but he did not make any statement either pro or con as to his personal feelings with respect to military service. [229] This associate recalled that the first time he learned of registrant's personal feelings about military service was in February 1964 when the registrant telephoned him and stated that he was going to follow the dictates of his conscience and claim exemption from military service because he was conscientiously opposed to such service. Registrant was urged by his business associates not to announce his intention of filing a claim as a conscientious objector but instead should go ahead and proceed with the possible induction process. Registrant was prevailed upon not to file a conscientious-objection request at that time. This associate recalled that eventually the registrant was examined and was found not acceptable for military service on mental grounds. He stated as a result the registrant did not at that time file a conscientious-objector claim but this associate is convinced that as of that time the registrant would have filed a conscientious-objector claim had it not been for this associate's intercession. This associate thought the registrant first became interested in the Muslims in about 1962 in Chicago. He thought the registrant possibly first learned of the Muslims through his brother. This associate recalled that in February 1964

a group of registrant's associates explained to him that his association with the Muslims would cost registrant at least a million dollars which he could otherwise earn. The registrant was recalled to say, "I want to tell you now that my religion means more to me than money and whether or not the public may like me. Nothing you have said makes me change my mind and nothing anyone will ever say will change my mind." This associate expressed the opinion that the registrant had thrown away many financial opportunities because of his Muslim association and noted a specific incidence in which the registrant had declined to play the role of Jack Johnson in a film. Registrant noted that Johnson stood for everything that he himself was against. It was also noted that the registrant was unable to get a fight in the United States because of his Muslim association. He noted that the registrant had been [230] the sole support of his parents for some years and has been supporting his brother. Registrant is also heavily burdened because of alimony payments to his ex-wife. This associate noted that registrant's general morals, ethics and relationships with people are above average when one takes into consideration the fact that as a young Negro boy the registrant did not have the same opportunities as a white boy might have had. Registrant has no character defects so far as honesty or integrity may be concerned. This associate thought registrant's character qualifications had changed very little since he first met the registrant. Registrant has always been a "nonviolent kid." He had never known the registrant to initiate an act of violence. He recalled several instances of registrant being provoked by verbal abuse but the registrant did not react violently. This associate considers registrant "a very tender boy" and one who loves children. Registrant had told this asso-

ciate he divorced his wife because she did not adhere to his Muslim beliefs. This associate expressed the opinion that the registrant would be sincere in his claim as a conscientious objector to the extent that the registrant can be sincere in a belief. This associate could not be sure how deep any human conviction goes with the registrant. He thinks the registrant sincerely believes that he is conscientiously opposed to military service but he is not certain as to what motivates the registrant in this respect. In view of his past experiences with the registrant changing his mind, this associate stated that he would not be surprised "if a year from now registrant becomes disenchanted with the Muslims and voluntarily joins the United States Marines." Another business associate of the registrant in Louisville who had known him since 1960 advised that the registrant's character with respect to morals, honesty, and integrity has always been sound. Registrant was never one to drink intoxicating beverages, or to smoke, and was not a girl chaser. There were never any indications of registrant's being dishonest or untruthful in important matters. [231] This associate recalled that during the early years of his acquaintance with the registrant, registrant was not a particularly religious individual but he was perfectly normal in this respect and while he probably didn't attend church regularly he did believe in an Almighty Being. During the first several years of their association, "religion did not play a big part in registrant's life" because his entire interest was in boxing. This associate thought the registrant became affiliated with the Muslims shortly before February 1964. This associate recalled a conference with the registrant in 1964 at which it was explained to the registrant that his association with the Muslims was costing him financially and the registrant replied that his religion

meant more to him than anything, including money or what the public might think of him and that nothing they, or anyone, could say would ever make him change his religion. This associate recalled that in late 1963 or early 1964, in a discussion relative to military service, the registrant said that he did not believe in wars or violence of any type. Registrant again expresed this view to this associate in the spring of 1965. This was the last discussion this associate personally had with the registrant relative to military service. This associate is convinced that the registrant divorced his wife because the Muslims around him insisted that he do so because she did not conform to their way of life. This associate noted that because of the registrant's association with the Muslims he has suffered tremendous losses financially. He does not believe the registrant has contributed heavily financially to the Muslims as a group. This associate stated that originally he thought registrant may have made a claim as a conscientious objector because he just didn't want to serve in the Army. This associate added that he is becoming more convinced every day that the registrant is sincere in his claim and motivated solely on a conviction of conscience that he cannot participate in any matter [232] involving killing. This associate believes that the registrant does not know hate in the manner the Muslims are supposed to hate because the registrant just isn't capable of having any real hate in him. This associate commented, "I'll go to my grave believing registrant basically is a good boy and was brainwashed first by his father and then the Muslims." He explained that he did not mean to infer that the registrant's father was a Muslim but registrant's father had instilled a dislike in the registrant for white people. This associate noted that Elijah Muhammad had told the registrant that the world is going to end in

1966. Registrant sincerely believes this and this associate wonders that if the failure of the world to end in 1966 might not shake registrant's complete faith in Muhammed. Another business associate at Louisville advised that he feels that the registrant is completely sold on the Muslim religion but he also feels the registrant "is stupid and has been brainwashed." This associate stated that he had never seen any aspect of registrant that was not sort of basically gentle. Registrant had never been known to react violently regardless of the amount of provocation outside the boxing ring. He is convinced that the registrant is deeply and utterly sincere about his religion but feels the registrant is "incredibly stupid" about some things "including the motivation of some people hanging around him." He did not think there was anything phoney about registrant's adherence to the Muslim faith. This associate concluded that while he cannot make a categorical statement regarding the sincerity of registrant's conscientous objector claim, it was this associate's "guess the claim is sincere." This associate recalled that in early 1966 the registrant had stated, "You fellows just don't understand my religion. Elijah Muhammud is my leader. They will never let me down. I don't contribute much money to them but I am important to them and they will never let me down. When my fighting days are over, it is my ambition to become a minister for them." This associate also recalled that in January 1966 the registrant [233] had expressed a desire to help the Muslims even at the cost of financial sacrifice to himself.

A business associate of the registrant in New York, who had known the registrant since 1961, advised that he was not aware of registrant's religious background until about 1963 when the registrant indicated that he was a

member of the Muslim religion. He knew the registrant does not smoke, drink alcoholic beverages, or eat certain foods in keeping with his religion. He was also aware that the registrant employs a woman to do his cooking at his various training camps, again in keeping with his religion. This associate considers the registrant a person of basically good character and sincerity who has been honest in his dealings with him. He stated that he had never discussed religious matters with the registrant and did not feel he would be in a position to comment on registrant's sincerity as a conscientious objector. Another business associate in New York advised that he had known the registrant since 1963 and noted that in the fall of 1963 he became aware that the registrant was a Muslim. The registrant had impressed him as being very religious and sincere in his beliefs. He considered the registrant to be a good-living boy. He noted that when the registrant announced his membership in the Muslim religion, his popularity declined and because of this the registrant "lost a fortune" in fees for personal appearances. This associate stated that based upon his knowledge of the registrant and his association with him, he considered the registrant to be sincere in his conscientious-objector claim. Another business associate in New York who has known the registrant since 1962 described the registrant as a very fine person and one who impressed him as being deeply religious. The registrant does not smoke or drink and he follows a strict diet in keeping with the Muslim religion. He noted that although the registrant's personality has changed somewhat since claiming membership in the Muslim religion, he still considers the registrant to be a fine person and a man of good character. He is quite certain that the registrant's claim to being a conscientious objector is made in all sincerity and good faith.

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[234] Another business associate in New York who has known the registrant since the fall of 1965 advised that he was aware of the registrant's membership in the Muslim religion and he described the registrant as a "religious fanatic." He added that he has discussed the matter of conscientious objection with the registrant on many occasions and on each occasion the registrant would only say that it would be against his religion to serve in the Army in a combatant or noncombatant capacity. The registrant also indicated that he would not serve in a hospital if given a conscientious-objector status. He concluded that there is no question in his mind that the registrant's claim of being a conscientious objector has been made in all sincerity and good faith. Another business associate in New York advised that the registrant is a likeable person but one who has been heavily influenced by the members of the Muslim religion and in particular by his own brother.

A business associate in Chicago, Illinois advised that he believes the registrant is quite sincere in seeking objection to military service based upon his religious beliefs because after having pointed out to the registrant the various results which could occur from his seeking conscientious-objector status, the registrant has nevertheless indicated that his beliefs in the religious principles of the Nation of Islam are such that he feels he cannot conscientously participate in the military of the United States. Registrant confines his associates almost exclusively to members of the Nation of Islam.

A business associate of the registrant in Miami Beach, Florida advised that he first met the registrant in Louisville, Kentucky in about 1958. He recalled that the registrant had told him that he has been a Muslim since about 1960. He noted that the registrant appears to follow de-

voutly the rules and regulations of the Muslims. The registrant does not smoke or drink. The registrant's attitude and conduct toward women are excellent [235] and the registrant takes great care not to violate any of the dietary rules of the Muslims. He noted that the registrant's devotion to the Muslims is shown by the fact that the registrant divorced his wife only because she refused to accept the teachings of the Muslims. He noted that whenever an employee of the registrant had been expelled from the Muslim organization, the registrant dropped the expelled employee from his payroll. This associate expressed the opinion that the person who has the greatest influence on the registrant's life is Elijah Muhammad and this associate believes that the registrant would blindly follow any and all orders and instructions given him by Elijah Muhammad. This associate described the registrant as "just a nice guy" who does not hate anyone. He does not feel the registrant dislikes anyone, white or Negro. The registrant could not get angry at anyone. He believes the registrant is a person of fine character. He expressed the opinion that the registrant is sincerely a nonviolent person. He continued by stating that although the registrant's whole life seems to be wrapped up in his Muslim activities, he does not know how often the registrant attends services or meetings of that group. The registrant does not train on Sunday and this associate believes the reason for this is the registrant desires to attend Muslim services. He is of the opinion that the registrant sincerely believes in and conscientiously follows the teachings of Elijah Muhammad.

The registrant's mother and a reference advised that the registrant lived at home with her in Louisville until he turned a professional boxer in about 1960. Since becoming a professional boxer, he has spent most of his

time in Chicago or Miami. At the time the registrant registered with the Selective Service System he made no objection to so registering and said nothing about being opposed to military service. In about 1960 the registrant changed his religion to that of Islam. He became connected [236] with this faith through attending a mosque in Miami, Florida. In 1964, at the time the registrant was ordered to take a physical examination by his draft board, the registrant told his mother that his religion taught him that one could not engage in violence or kill any human being or take part in any war. He told her that he sincerely believed this and that his conscience would not permit him to serve in the Armed Forces of the United States or any other country. Since 1964 the registrant has told his mother that he could not take part in anything related to war, as it would be against his religion and his mother expressed the conviction that the registrant is sincere and honest in his beliefs regarding military service. The registrant's mother noted that although the registrant has not lived continuously at home since becoming a professional boxer, she maintained frequent contact with him. She has no doubt whatsoever that his claim of being conscientiously opposed to participating in any military effort is a sincere one and a deeply seated conviction held by him. She feels that this conviction occurred after the registrant became a member of the Islam faith. She noted that she had raised the registrant in the Baptist faith but after he left home he became interested in the Islam faith. She thought the registrant had been influenced most in accepting the Islam faith by the leader of that faith, Elijah Muhammad. The registrant has always been "a good boy". He has never been involved in violations of the

law except in connection with traffic violations. She stated that she could not recall the registrant ever having engaged in any physical fights with anyone during his youth other than supervised amateur boxing. She believes the registrant is entirely sincere in maintaining his conscientiously opposed to participation in any fashion in support of any war effort. The registrant's father recalled that the first time the registrant ever mentioned anything to him about being conscientiouly opposed to service in the Armed Forces was in February 1964, when the registrant stated that he was a member of the Islam [237] faith and that his religion teaches that persons cannot take part in any war or commit an act of violence against another person. He stated that he was convinced that the registrant was sincere when he expressed these sentiments. The registrant has repeatedly stated the same thing that his religion will not permit him to do anything which will help in any war or anything which involved violence. The registrant's father stated that religion means everything to the registrant. He talks of his religion all the time and is very proud of his religion. He knew that the registrant had turned down a number of opportunities to make money because there was something about the opportunities which disagreed with the registrant's religious teachings. The registrant's father noted that his son has been a fine boy and has caused the family no trouble. The registrant's father advised that he himself is a Methodist but the registrant was raised as a Baptist by his mother. The registrant became interested in the Islam faith after he left home as a professional boxer. He felt the registrant first became acquainted with the Islam faith in Miami. He stated that there is no doubt in his mind that the registrant is entirely sincere in his beliefs in the Islam faith. He con-

cluded that there is absolutely no doubt in his mind that the registrant is conscientously opposed to participating in any manner in any war effort. A neighbor of the registrant and his family in Louisville, Kentucky for several years after 1953 advised that she considers the family to be a good family. The registrant's mother attended church regularly and when the registrant and his brother were youths, she took them to church with her. Their attendance at church with their mother became infrequent when they became older. This neighbor considers the registrant and his brother to have been very mannerly boys who caused no difficulty at all and were not the type to run around a lot or to get into difficulty. The registrant's whole life during his early years seemed to be in boxing. The registrant showed an extreme fondness toward younger children as [238] a youth. She noted that after the registrant became nationally famous, he would return to the neighborhood for a visit and he continued to exhibit a pleasant, friendly personality. This neighbor considers the registrant to be an honest, reliable and sincere individual. Another neighbor of the registrant and his family in Louisville characterized the registrant's mother as a wonderful person. The registrant's father was a good father, but inclined to "drink a little too much." The registrant and his brother were good boys, always polite and helpful. Neither of them had been known to be in any trouble. She felt the registrant and his brother had "old time manners" in which both would always address their elders with respect. She recalled that the registrant was interested in poetry during his high school days. This neighbor considers the registrant honest, sincere and a reliable individual. A friend of the registrant since elementary school days in Louisville advised that he knows the registrant is a member of the Muslim faith

and is sincere and faithful to his religion. He recalled that even when the registrant was in high school, he used to speak of this religion. He knew that the registrant has always been opposed to violence and he stated that if the registrant states he is conscientiously opposed to military service, he is confident that such a statement is sincere and honest. The registrant has always been a likeable and easy-going person, good-hearted, and a person who was never rowdy or who was "out looking for a fight". A friend of the registrant for ten years in Louisville advised that the registrant has always led a good, clean life. He has never known the registrant to drink intoxicating beverages, engage in any immoral activity or show any signs of bad character. He stated that he has never discussed the registrant's religious beliefs extensively but he believes the registrant is sincere in such beliefs. He characterized the registrant as a likeable fellow and noted that everyone around him liked him. He felt the registrant became interested in [239] the Muslim religion after turning professional in boxing and starting to live in Miami. He has never known the registrant to act in any violent way outside the boxing ring. He recalled that recently the registrant stated that he just "can't go into military service—I don't know what they're going to do to me." The registrant stated that he just could not do anything having to do with killing his brothers. This friend thought the registrant divorced his wife because she would not dress right and she set a bad example for the other Muslim women. This associate believes the registrant's claim to conscientous-objector status is sincere. A relative of the registrant in Louisville advised that he has known the registrant all of his life and recalled that as a youth he was a fine boy. This relative thought that in 1959 or 1960 "someone in Chicago" influenced the

registrant and his brother with the Muslim religion. The registrant last visited this relative's home in 1960 when this relative expressed disagreement with the principles of the Muslim religion. He felt that the registrant had become a member of the Muslim religion in about 1964. This relative feels that if the registrant claims conscientious objection from military service, "he is sincere but foolish". He characterized the registrant as weak-minded and he thought the registrant was being led completely by persons with whom he should not be associating. Another neighbor in Louisville characterized the registrant and his brother as fine boys. Their mother was a devout Baptist and the boys used to attend church with her. The registrant and his brother were good boys and never caused any trouble. The registrant began evidencing interest in the Islam religion around 1960. She believes the registrant is sincere in his claim, although she completely disagrees with his claim as a conscientious objector.

A representative of 50th on the Lake Motel, Chicago, Illinois advised that the registrant maintains a residence [240] at this motel on a transient basis only. He noted that the registrant was very closed-mouthed while at the motel and always conducted himself with scrupulous decorum. A neighbor of the registrant and his wife in Chicago for a year prior to January 1965 advised that the registrant, his wife and two other male individuals, identity not known, resided in an apartment. The registrant caused no trouble of any nature and did not associate with other tenants.

A neighbor of the registrant in Miami, Florida advised that he developed a close personal acquaintance with the registrant and recalled that he had done all he could to discourage the registrant from becoming a member of the Nation of Islam. He stated that prior to the time the

registrant publically announced his Nation of Islam membership, the registrant had no religion whatsoever and appeared to be searching for a religion. This neighbor had the impression that the registrant was seriously considering becoming a Christian. The registrant has become a devout and obedient follower of Elijah Muhammad and a sincere believer in the Islamic religion. He stated that he believes the registrant's whole life is influenced and directed by Elijah Muhammad. He noted that the registrant appears basically to abide by the rules and regulations of the Muslims. He believes the registrant regularly attends Nation of Islam meetings. The registrant appears to be a relatively peaceful person and he has never shown any hatred toward anyone. The registrant seems to welcome all people into his home regardless of race. This neighbor felt the registrant would not hesitate to fight back if anyone ever attacked him. The registrant has stated that he never wants to hurt anyone in the boxing ring. The registrant has stated that he could not serve in the military because he does not want to kill anyone. The registrant stated that he did not want to serve as a noncombatant, as this would indicate he was supporting the killing of people. This [241] neighbor recalled that about a year ago the registrant's father arrived at the registrant's home, obviously intoxicated. He had a knife in his hand and started shouting about the registrant's membership in the Muslims and the fact that registrant's father's name was being ruined by the Muslims. He stated that he was going to kill all the Muslims around the registrant's house. This neighbor noted that the registrant got extremely upset at his father's statements and actions, and he attempted to attack his father and had to be physically restrained from hurting him. When still being held, the registrant

was attempting to kick his father. This neighbor feels that the registrant is basically a "stupid person" although he does have some native intelligence. He feels that the registrant's stupidity together with a quirk or flaw in his character, apparently developed through childhood environment, has made it possible for him to accept the teachings of Elijah Muhammad. Another neighbor in Miami advised that the registrant appears to be a person of good character and reputation, and is well-liked by people in the neighborhood. She knew nothing regarding the registrant's home life which would reflect adversely upon his character. Another neighbor advised that the registrant's general behavior appears to be very good.

The registrant's former wife advised that she was married to the registrant for eleven months and resided with him in Louisville, Miami and Chicago until August 1965. She knew him for one month prior to their marriage. She knew that he was a member of the Nation of Islam when she met him and during their period of marriage she attended the Nation of Islam Mosque, primarily in Chicago on a relatively weekly basis, on Sundays. She is of the opinion that the registrant is sincere in his acceptance of the teachings of the Nation of Islam, as made known to him through Elijah Muhammad, whom she thinks is the registrant's only spiritual advisor. She believes that the registrant blindly follows the teachings and precepts [242] of the Nation of Islam, in that the registrant does not smoke, drink or eat foods forbidden by the teachings of Muhammad. She expressed the opinion that she would still be married to the registrant if it were not for the influence exerted on his thoughts and actions by Elijah Muhammad and other members of the Nation of Islam. She recalled that she had attempted to comply with the

instructions of the Nation of Islam regarding her dress, but since it was not in her heart to have hate for any person she was not acceptable to the Muslims and she expressed the opinion that the registrant was directed by influential active members of the Nation of Islam to disassociate himself from her, which he did. She noted that the Nation of Islam in Chicago had provided her attorneys with a check which bore the notation, "Return of charitable contributions" in connection with her divorce settlement with the registrant. She stated that the registrant is controlled in his boxing career by the Nation of Islam through a firm owned and operated by the Nation of Islam. She noted that neither the registrant's mother nor father is a member of the Nation of Islam and are not in sympathy in any way with the tenets of this movement. The registrant's former wife stated that she believes the registrant is sincere in his convictions with the qualification in her mind regarding his participation in a "savage sport" which to her is in opposition to the expressed teachings of the Muslims. She stated that the registrant is sincere in his conscientious objection to military service based upon his adherence to the teachings of the Nation of Islam, in that she believes he has been advised by Elijah Muhammad and other leaders of the Nation of Islam that such service is against the teachings of the Nation of Islam. She noted that she still would be married to the registrant if it were not for her failure to be accepted by the leaders of the Nation of Islam as the wife of the registrant. A friend of the registrant since 1957 noted that he believes the registrant is a strong believer in the Nation of Islam, adding "it's all he ever talks about". He recalled that on June 6, 1966 the [243] registrant stated that he would not have to go into

military service because of his religion but added that "if he had to go, he would go." This friend stated that the registrant is a person of fine qualities who has no hate for anybody, but as a member of the Nation of Islam he must act in a way to comply with the teachings and desires of the leaders of this movement. This friend thinks the registrant is sincere in his convictions as a conscientious objector to military service, in that it is in conflict with the teachings of the Nation of Islam, but he added that this sincerity on the part of the registrant is predicated in the fact that he is under the complete control of Elijah Mumammad and other dedicated leaders of the Muslims. He felt the registrant would perform any act directed by Elijah Mumammad. A friend of the registrant who has known him since March 1962 advised that when he first met the registrant, the registrant acknowledged that he was a follower of Elijah Muhammad and a member of the Nation of Islam. The registrant did not make this fact publically known until after he had won the World Heavyweight Boxing Title. The registrant always attended Muslim meetings whenever he could and he was known to this friend as a dedicated Muslim who talked Muslim day in and day out, and he was a person who really believed in it. He stated that money does not mean as much to the registrant as his religion. The registrant has stated that he does not believe in war or fighting, aside from boxing as a sport, and he is opposed to service in the Armed Forces. The registrant will not serve in the military forces. This friend stated that he has never been a member of the Muslims himself, although he has attended numerous Muslim meetings with the registrant. He noted that the registrant first met the woman who became his wife on July 3, 1964. He noted that she was never

a Muslim, either prior to or after marriage to the registrant. He noted that the registrant always wanted his wife to join the Muslims, as this was his way of life. This friend stated that this was not the [244] sole reason for their divorce but it was a factor in the decision. This friend concluded that he knew of nothing that would reflect upon the character or reputation of the registrant, and he expressed the opinion that the registrant is sincere in his claim of conscientious objection to military service based upon his Muslim religion.

The spiritual leader of the Nation of Islam, and a reference, advised that he considers himself to be the spiritual advisor of the registrant. He has discussed the matter of conscientious objection with the registrant and believes that he is sincere in his objection to any form of military service. He stated that he did not advise or instruct the registrant to claim conscientious objection, but he explained to him the teachings of the Nation of Islam. He advised the registrant that these teachings preclude any member of the Nation of Islam from participating in any form of the military service of the United States. He believes the registrant is sincere, that he is a very good young man, and that the registrant's whole heart and mind are involved in the principles of the Nation of Islam. He considers the registrant genuinely sincere, in that he is in regular attendance at mosque meetings. He noted that the registrant gives whatever he is able to give and does contribute commensurate to his financial status. This advisor stated that he considers boxing a sport of skill and not in conflict with the teachings of the Nation of Islam. The registrant has expressed his desire to devote his full time and talents to the furtherance of the Nation of Islam movement by recruiting new members after his retirement from

boxing. This advisor reiterated that he believes the registrant is sincere in his conscientious objection because the registrant is an active, sincere and dedicated member of the Nation of Islam who has been advised that no member of the Nation of Islam may bear arms against anyone; because the registrant is regular in his attendance at the mosque and he complies with all of the teachings of the [245] Nation of Islam; because he makes financial contributions commensurate with his income; because he desires to leave the sport of boxing and completely dedicate his activities of the furtherance of the Nation of Islam; because "his whole heart and mind is involved" in the movement; and that he relies completely on Elijah Muhammad for spiritual counseling. Another coreligionist who has known the registrant for two or three years advised that he understands the registrant has been a believer in the precepts of the Nation of Islam since 1960. He stated that the registrant abides by all of the precepts of the Nation of Islam, in that he does not smoke or drink and he abstains from eating "swine". He noted that the Nation of Islam religion prohibits service in the military of the United States in any capacity and he stated that as far as he knows, the members of the Nation of Islam have never entered military service voluntarily. This coreligionist believes the registrant is sincere in requesting conscientious-objector status based upon his membership in and affiliation with the Nation of Islam. He noted that any male who enters the Nation of Islam is automatically a member of the Fruit of Islam. He added that the registrant holds no rank or title within the Nation of Islam. Another coreligionist in Chicago characterized the registrant as a good Muslim and one who is sincere in his convictions regarding conscientious-objector status, in that he is a true

and loyal Muslim and as such he could not in good conscience violate the tenets of this teaching by engaging in military service. A coreligionist in Miami, Florida advised that he first met the registrant five or six years ago when the registrant visited Mosque No. 2 in Chicago, Illinois and stated that he had heard of the teachings of Elijah Muhammad and was interested in seeing the operation of that mosque. This coreligionist stated that he believes the registrant has been a believer in the Islamic religion from that time. He noted that when in Miami, the registrant attends Muslim meetings at least twice a week. He knows that the registrant [246] is a completely devout follower of the Islamic religion as taught and directed by Elijah Muhammad. He stated that there was absolutely no question in his mind as to the sincerity of the registrant and his beliefs in Elijah Muhammad and his beliefs in the Islamic religion. He noted that Muslims do not forbid or frown on participation in sports by its members. They look on boxing as a sport; therefore, a member may become a professional boxer without violating any of the rules and regulations of that organization. He concluded that there is absolutely no doubt in his mind that the registrant is a true, devout, sincere believer in the Islamic religion and in the leadership of Elijah Muhammad. The registrant is therefore a peaceful person and could not in good conscience answer a call to the military service of the United States. Another coreligionist in Miami who has known the registrant since 1960 expressed the opinion that the registrant is a true, sincere and devout believer in the Islamic religion and in the teachings of Elijah Muhammad. The registrant's sincerity is exemplified in his behavior and conduct in his everyday life. The registrant does not drink or smoke, and he completely adheres to the dietary laws of

the Muslims. He recalled that when he saw a press report that the registrant had purchased a gun, he went to the registrant and the registrant explained that he purchased it more or less as a toy. This coreligionist stated that he immediately took the gun from the registrant and threw it in the Atlantic Ocean. He noted that the registrant's participation in the sport of boxing is not in any way contrary to the rules of the Nation of Islam and the teachings of Elijah Muhammad. Other coreligionists in the Miami, Florida area attested to the registrant's devotion to the principles of the Nation of Islam and his following these principles.

An informant in Chicago, Illinois, advised that Elijah Muhammad is the national leader of the Nation of Islam and that his Temple of Islam No. 2 in Chicago is [247] the national headquarters. The Nation of Islam was characterized as an all-Negro organization which was originally organized in 1930 in Detroit. Members believe that the so-called Negroes are slaves of the white race, referred to as "white devils" in the United States. In the past officials and members of the Nation of Islam, including Muhammad, have refused to register under the provisions of the Selective Service Act and have declared that members owe no allegiance to the United States. The Fruit of Islam was characterized as a group within the Nation of Islam composed of male members of the Nation of Islam. The purpose of the Fruit of Islam is to protect officials and property of the Nation of Islam, assure compliance of members with the Nation of Islam teachings and to prepare for the War of Armageddon. Members of the Fruit of Islam are required to participate in military drill and are afforded the opportunity to engage in judo training. The Fruit of Islam is governed by military system, wherein the members are

controlled by general orders similar to those issued by regular military organizations.

Another informant advised that the registrant attended a meeting of Muhammad's Mosque No. 12 in Philadelphia in 1964 and attended other meetings in 1965. The registrant was reported to have addressed a meeting of the Nation of Islam at Temple No. 6 in Baltimore on May 6, 1964, wherein he discussed his recent fight and how, by becoming a member of the Nation of Islam, he was helped to become the Heavyweight Champion of the World. He also stated that by becoming a member of the Nation of Islam, he had learned things about himself that no white man had ever told or taught him. He said that every black person should become a Muslim. He noted that the black man should stop trying to become like the white man. The registrant added that he never knew how lucky he was until he had heard about Mr. Muhammad and began following his teachings. The registrant concluded by stating that if he were [248] penniless, he would not want to have anything other than to be a Muslim and a follower of Mr. Muhammad. At a dinner meeting held by Temple No. 6 in Baltimore on December 20, 1965, the registrant praised a number of influential Negroes attending the meeting on the abuse of the "white devils" to the so-called Negroes. The registrant stated that the Negro would never have equal rights under the present system as controlled by the white man. A minister of Muhammad's Temple of Islam No. 27 in Los Angeles advised that he has known the registrant since 1962. He stated that he has had numerous conversations with the registrant and had counseled him in the Muslim religion. He has found the registrant a dedicated member who practices the teachings of Elijah Muhammad and as such is completely sincere in his claim of conscientious objection

to military service. He stated that war, killing and violence are wrong and in direct contradiction to these teachings, even to the extent of the use of part of these elements in sports. He stated that Muhammad does not agree with the registrant's participation in boxing matches, but as long as the registrant does not violate the basic concepts of the religion Muhammad will not interfere in the registrant's personal pursuits. This coreligionist stated that there has never been any question concerning the character or reputation of the registrant. He added that he had met the registrant's former wife on one occasion and to his knowledge she never joined the Muslim religion, although it was his understanding that she did attend a number of meetings and had considered possibly becoming a member.

A representative of the Chicago, Illinois, Police Department advised that the registrant was arrested for disorderly conduct on December 14, 1963. He was found guilty on February 11, 1966 and was fined $45 plus $5 costs. A representative of the Department of Public Safety, State of Kentucky, Frankfort, Kentucky, advised that on [249] February 8, 1963 the registrant's operator's license was suspended by the department as the result of the fact he had accumulated a total of 13 points, representing infractions of motor vehicle regulations in Indiana, Florida and Georgia. On June 20, 1963 the Department of Public Safety again suspended the registrant's license for a period of six months in view of various violations of the State of Florida. The registrant never submitted to a test for a new operator's license in the State of Kentucky and does not hold a current Kentucky operator's license. Records of the Jefferson County, Kentucky Quarterly Court in Louisville reflect that the registrant's driver's license suspension of February 8, 1963 had been set aside. Records of the

Miami, Florida, Police Department reflect that on September 19, 1964 the registrant purchased a .22 caliber Colt derringer from a pawn shop in Miami. Credit records are satisfactory.

Records of the Dade County Circuit Court Clerk's Office, Miami, Florida, in File 65C-6909 reflect that in the registrant's complaint for annulment of marriage and other relief he alleged that he entered into a common law marriage at Miami, Florida on or about July 24, 1964 and subsequently on August 14, 1964 was married in a civil ceremony in Gary, Lake County, Indiana. The registrant further alleged that his wife falsely and fraudulently represented and promised that following the marriage she would adopt the Islamic faith as her own religious order. The registrant further alleged that his wife refused to convert to the Islamic faith. Court records reflect that a final decree of divorce was issued on January 10, 1966. The registrant was directed to pay alimony and his wife's attorney's fees. Subsequently, a petition for rule to show cause was filed on February 17, 1966 because of the registrant's failure to pay all of the money to his wife and her attorney's fees as decreed by the court. Subsequently, an order discharging the rule was entered.

[250] A representative of the XVI U. S. Army Corps, Omaha, Nebraska advised that the registrant made no effort to join the Army Reserve in the State of Nebraska. A representative of the Army National Guard, State of Nebraska at Lincoln advised that the registrant never made any attempt to join the Nebraska National Guard.

The following materials are based upon press accounts. The *Amsterdam News*, New York, on March 28, 1964 quoted the registrant: "I was rejected by the U. S. Army but I was ready to go. I was ready to do what the Army re-

quested." The *Chicago American* on February 24, 1966 reported that the decision that the registrant would become a conscientious objector was made by the Black Muslims. The orders had been sent to the registrant in his training camp in Florida. The *Los Angeles Sentinel* on August 13, 1964 quoted the registrant's wife as stating that she was a Muslim and that her leader is the Honorable Elijah Muhammad. The *Miami Herald* for January 8, 1966 quoted the registrant's wife as stating that the registrant had slapped her, but she still loved him. The *Courier Journal,* Louisville, Kentucky on March 24, 1963 reported that the registrant expects to be called up in 1964 for Armed Forces duty and his inclination now is to serve two years and get it over with rather than serve six months and attend reserve meetings once a week for some years. The *Chicago Sun Times* for July 3, 1963 quoted the registrant as saying that the Black Muslim organization is the greatest one that he has found, but he added that he did not know whether he was a member of the organization. The *New York Herald Tribune* on January 23, 1964 reported that when the registrant was 18 years of age, while visiting in New York, he first heard a speech by a Black Muslim and his interest in the organization was revived two years ago when he started attending Muslim meetings in Miami. The *Miami Herald* for February 7, 1964 reported that the registrant's father stated that the registrant joined the Black Muslims four years ago at the age of 18. He stated that the Muslims had [251] told the registrant and his brother to hate white people, to hate women and to hate their mother. The *New York Journal American* on February 27, 1964 quoted the registrant in connection with some recent Muslim meetings: "I've just spent four hours with God. He's going to fix it up so I won't have to serve in the Army." The *Chicago American* for

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February 28, 1964 reported that the registrant revealed that he had been a Black Muslim since 1959, when he was 17 years of age. The March 8, 1964 issue of the *Courier Journal,* Louisville, Kentucky reported the registrant as stating: "I don't hate anybody, and I know the Muslims don't teach hate. If they did I wouldn't be with them." The March 14, 1964 issue of the *Chicago Sun Times* reported the registrant as stating with respect to the possibility that he might be inducted into the Army: "No one likes the idea of dropping from $1,000,000 to $85." The *New York Times* on March 24, 1964 reported that the registrant was first introduced to Islam when he was 17 years old in Atlanta. In the intervening years he sought other faiths and other answers but eventually found, he said, that the Muslim philosophy "fits us (Negroes) like a glove." The August 15, 1964 issue of the *Courier Journal,* Louisville, Kentucky quoted the registrant's mother as stating that the Black Muslims have brainwashed the registrant and had ruined her two boys. She noted that the registrant and his brother did anything the Muslims tell them to do. The May 22, 1965 issue of the *Chicago Daily News* quoted the registrant as stating that as long as Elijah Muhammad lets him fight, he will continue to fight but if Muhammad tells him to quit, he would quit. The article also quoted the registrant, "Religion is more important to me than fighting. If all American Negroes are not Muslims within two years, I will get out of the Muslims." The February 18, 1966 issue of the *Chicago Daily News* quoted the registrant that he would seek to avoid military service because of his religious beliefs and he stated, "I am a member of the Muslims and we don't go to no war unless they are declared by Ali himself. I don't have [252] no personal quarrel with those Vietcongs." The registrant was also quoted as saying that he had not spoken to Elijah

Muhammad about making his appeal of his I-A classification. The registrant was further quoted as saying: "Let me tell you, we Muslims are taught to defend ourselves when we are attacked. Those Vietcong are not attacking me. These Vietcong are fighting a very nasty war over there. There is a lot of people getting killed. Why should we Muslims get involved? Besides, I am fighting for the government every day. I am laying my life on the line for the government. Nine out of ten soldiers would not want to be in my place in the ring. It is too dangerous." The February 19, 1966 issue of the *Courier Journal*, Louisville, Kentucky reported that the registrant had stated that he would ask his draft board to reclassify him as a conscientious objector: "I am going to appeal this. The theory of God, Ali, I have won't let me go. In Islam we don't believe in killing off other human beings. I can't go." The article also reported that many Muslims have served in the Army. The February 19, 1966 issue of the *Louisville Times* reported that Page 135 of the book, "The Eternal Message of Muhammad", states the following:

> "The Message of Muhammad considers warfare admissible and a virtue when undertaken to repel aggression against the weak, be it against an individual or a group, in the interest of erecting the edifice of justice desired by God on earth. The prophet devoted himself to the repulsion of tyranny, as did his successors, inasmuch as he commanded the authority of the Islamic policy to defeat aggressors and avert tyranny. . . It follows therefore, that an Islamic state may ally itself with one or more states to defend a victim."

[253] The April 8, 1966 issue of the *Chicago American* reported that the registrant had tried to join the Army

Reserves in Nebraska but had been turned down. An article by the registrant in the April 15, 1966 issue of "Muhammad Speaks" stated that the registrant had neglected to rely on the One Divine Foundation that had previously carried him successfully through his major fights; that he was relying on his own natural ability to beat Chuvalo, whereas he should have placed his faith, prayers and reliance upon Ali and Elijah Muhammad. The registrant noted that what had happened to him is a prime example of what can befall anyone who forgets to place Ali and his messenger in front of their endeavors rather than behind them. The May 1, 1966 issue of the *Courier Journal*, Louisville, Kentucky reported that the registrant stated that the fights he has in the ring cannot compare with the pressures to which he is subjected out of the ring and that "if it wasn't for my religion I would be dead or crazy." The May 20, 1966 issue of the *Chicago Sun Times* reported that the registrant had gone out of his way publicly to thank President Johnson and his local draft board for allowing him to go to England to fight. The registrant was quoted as saying, "I want to make mention of something that is very close to me. I refer to the country in which I was born—the United States of America. I would like to say that I was born there and that is where I am going to return." The May 20, 1966 issue of the *Miami News* reported that the registrant, when asked his choice among recruitment in the Army, work in an Army institution as a conscientious objector or going to jail, replied, "Let them put me in jail. How big would that make me? Damn the fights, forget the money. Let them put me in jail." The May 22, 1966 issue of the *Courier Journal*, Louisville, Kentucky reported that the registrant in commenting on the fight with Cooper on May 21, 1966 that had been stopped because of a bad cut over Cooper's

eye stated: "I didn't want it to end like that. I don't like doing this to anybody. It is against my religion. It is [254] against my feelings. I don't mind admitting I was a bit disturbed by all that blood. I didn't really want the violence to continue. I don't like hurting anyone." The "Three Star Final Edition" of the *Chicago American* at page 23, column one, reported that the registrant told close friends he would like to visit wounded Vietnam service men in the Great Lakes Naval Hospital. On July 5, 1966 officials of the Great Lakes Naval Hospital, Great Lakes Naval Training Center, Illinois advised that neither the registrant nor anyone reportedly representing him had indicated the registrant would like to visit wounded Vietnam service men.

Prepared: July 9, 1966

Exhibit A-2

Cassius M. Clay, Jr.—Conscientious Objector

Hearing August 23, 1966

Muhammad Ali a/k/a
Cassius M. Clay, Jr.
4610 N.W. 15th Court
Miami, Florida
August 15, 1966

The Selective Service System
Kentucky Appeal Board
and to the
Department of Justice
Washington, D.C.

Re: Local Board Registrant
Cassius M. Clay, Jr.
No. 15-47-42-127
a/k/a Muhammad Ali

Dear Sirs:

You will notice above that I show my legal domicile as 4610 N.W. 15th Court, Miami, Florida. I spend most of my time, however, in Chicago and maintain a place of resident there so I can be close to the headquarters of The Lost Found Nation of Islam, the religious group that I work with, and I use my parents' address in Louisville to receive my mail from my local board of the Selective Service System.

I am writing this letter, which I am handing to Judge Grauman, to show you that I have genuine and sincere conscientious objections to military service because of my life, my work and my devotion to the religion known as

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The Lost Found Nation of Islam which I first became acquainted with through the teachings of Elijah Muhammad during the month of October 1961. It was this way: I was walking down N.W. Second Avenue and Tenth Street in Miami, Florida when one of the followers of Elijah Muhammad approached me and invited me to come and hear one of the spiritual services that was then being held at Muhammad's Mosque No. 29 in Miami which was then located at N.W. Second Avenue between 7th and 8th Streets N.W. I went there and liked what I heard and believed what I heard and I immediately decided that I wanted to become a part of it and learn more about the Islamic faith.

After the meeting was over I was introduced to Captain Samuel X. Saxon, who was captain of Muhammad's Temple No. 29. I told him of my interest and desire to learn more about it. He invited me to come to all of the meetings which were held three times a week. There was one meeting on Wednesday night at 8:00 P.M., and another meeting on Friday night at 8:00 P.M., and another meeting on Sunday afternoon at 2:00 P.M. I agreed to attend and did thereafter regularly attended all of the meetings for three months accompanied by him and being convinced and fully understanding the purposes and program of the faith thereafter I attended on my own. I subscribed to the weekly publication, Muhammad Speaks, which I read and studied. This was the start of my training in the ministry. I also distributed the publication, Muhammad Speaks, on the streets of Miami three days per week.

During the first three months of my indoctrination the thing that kept me close to it was a phonograph record which I replayed and listened to many times daily until I learned it by heart. The record was entitled "A White Man's Heaven Is A Black Man's Hell" being a speech and

song which which was by one of Muhammad's Ministers, Louis X of Boston, Massachusetts. The message on the record was drilled deep into my memory so I could remember it all word for word. Part of the message was: "Why are we called Negroes? Why are we deaf, dumb and blind? Why is everybody making progress and yet we lag so far behind? Why are we mistreated? Why are we in this condition, stripped of our names, our language, our culture, our God and our religion? Here in America all of our religious training is gotten from the preacher. He has told us of a heaven way up in the sky that we can't enjoy now but rather after we die. So my friends, take it for what it is worth, your heaven and your hell is right here on this earth." There was a great deal more to the record that I played several times each day. It deeply drilled into my mind and memory time and time again each day that the Religion of Islam, as taught by Elijah Muhammad, was the thing that I had been looking for all my life and now I had found it. I was determined to learn all about it and teach and preach it to others. I was also determined at that time to make it my main purpose in life because it had the only answer to the Black Man's needs and the answer to all of the questions that I had in my mind about the so-called Negro all of my life. I was also determined to make everything else in my life secondary and incidental to this my main purpose in life; preach and teach the Religion of Islam as taught by Elijah Muhammad.

I, as above stated, in the beginning of my training was a regular subscriber to the paper Muhammad Speaks and had in my possession and regularly studied many other publications containing the doctrines and principles of the religion as taught by Elijah Muhammad, beginning in 1961. I also attended the weekly meetings without failure at

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Miami and all the other places where there were temples and mosques in the United States during my journeys from place to place as a boxer. I attended and received religious instructions in preparation for my ministry in the temples and mosques at Miami, in Atlanta, Georgia, Detroit, Michigan, Cincinnati, Ohio, Newark, New Jersey, Philadelphia, Pennsylvania, New York City, Boston, Massachusetts, Los Angeles, California and later beginning in 1964 regularly at the home of Elijah Muhammad in Chicago where I visited and received instructions regularly; and I also received direct counsel from Elijah Muhammad by telephone regularly between visits.

When I was born I received the slave name of Cassius Marcellus Clay, Jr., and used this name thereafter as well as at the time I registered for the draft and filed my original papers with the draft board. From early childhood I was a member of the Baptist faith but was always looking for the religion that practiced what it preached and taught peace for man instead of war and finally I found it in the Religion of Islam.

As a part of that religion I was taught that the black man through slavery had lost and had been robbed of their true names that their ancestors had and were named after their slave masters, being the names of white men. When I was officially registered as a believer and follower of the Muslim Faith in the early part of the month of February, 1964 I received the obligation as a part of my religion to use the letter "X" instead of the last name Clay which letter "X" meant that I was in search for my own name. The use of "X" by Muslims signified that we were "ex" Christians, "ex" Negroes and no longer believers and followers of the Christian way of life but instead had assumed the way of

Exhibit A-2

life of striving to be a righteous Muslim follower of Elijah Muhammad.

I continued thereafter, as part of my religious belief and practice, to use the letter "X" in my name until my spiritual leader the Honorable Elijah Muhammad on his national radio program publicly and to the whole world gave me two holy names of Muhammad Ali which are two attributes of Allah himself, and over the radio program he said he hoped that I accepted the name. I did with joy and honor and have tried to live up to the name and defend it ever since by preaching, practicing and living the life of a Muslim twenty-four hours a day.

I have defended my religion and faith on every occasion where I was challenged, tested or debated with. This has been both privately and publicly. I have been constantly challenged because of my religion since I announced to the world on February 26, 1964 that I was a Muslim. This was after my fight with Sonny Liston. For example some of the outstanding instances are (1) The Les Crane Television show where I appeared on three occasions; (2) The Mike Douglas Television show where I appeared on two occasions; (3) The three occasions on the Howard Cossell Sport Radio show originating in New York; (4) The three occasions on the Chicago television show called the Irv Cupsonet show; (5) and several other television and radio shows in different cities around the country. On each and every one of these occasions I was challenged because of my Muslim religion and defended it by explaining and telling about my practicing what I preached as a Muslim.

I have defended my faith on the streets, in restaurants, at airports, on airplanes because I was challenged everywhere and attacked and questioned because of my being a Muslim. This has made me use my knowledge and under-

standing of my religion as a minister and defend it as such.

Not only have I defended and practiced my religion by word of mouth but, I have also in all of my conduct and private life attempted to let my action speak louder than my words. My personal and private conduct, as I will now show, has been a silent testimony of the sincerity of my personal statements of my beliefs.

I divorced my wife at a cost to me of $170,000.00 because of her failure and refusal to faithfully live up to the Muslim religion as she promised to me. This made me grow stronger in the faith. Contracts involving large sums of money offered to be paid to me for sponsoring products for sale were turned down by me because it was not consistent with my religion to endorse such products. I refused an extraordinarily valuable movie contract to do the leading role in "Slave Mutiny" and also another role that was offered to me in the movies to do "The Jack Johnson Story", a movie based on the life story of the fighter Jack Johnson as well as to participate in many many T.V. spots and rolls in numerous other movies. I turned them down because the rolls involved conduct inconsistent with and contrary to my religious beliefs. I refused to perform a Columbia Record Recording Contract for the recording of my voice as a singer that would have netted me over $500,000.00. I turned this down too because the words and ideas I was asked to sing were contrary to my religious beliefs and inconsistent with my position as a minister and figure as a leader in the Muslim religion. It would not set a proper example by me as a minister in my religion.

Last but not least to mention is the stand that I took publicly as a conscientious objector to the war in Viet Nam. The Illinois Boxing Commission challenged me and ruled that it would permit me to participate in the Ernie Terrell

fight to defend my World Championship Title, which would have brought me $2,000,000 only if I would apologize and retract the words that I stated publicly describing my conscientious scruples against participation in the war in Viet Nam. I could not conscientiously and consistently with my religious convictions retract my words or apologize for what I said. I thereby refused to exercise the option given me on those terms to fight and earn the $2,000,000. This conscientious and uncompromising position showed the sincerity of my position as a conscientious objector and as a member of the Muslim Faith.

The most important thing that proves the sincerity of my beliefs in the Muslim religion is the fact that I have since early 1964 devoted over 90 per cent of my time to preaching and teaching as a minister the doctrine and principles of the Muslim faith. This shows that preaching is my main business and vocation in life and that everything else is entirely secondary and incidental to my ministry. I have devoted an average of more than 40 hours per week of each year of my life since 1964 to the performance of my ministerial duties as an ambassador of the Muslim faith. I will continue to do so and am striving for the day when every minute of my life will be devoted to such ministry and not even any incidental part-time will be devoted to anything else. Then my entire life will be confined to my religion instead of, as now, making it my vocation or main purpose in life with boxing an incidental pursuit.

It is true that I must devote and do devote some of my time to training and preparing for boxing matches to defend my World Heavyweight Championship Title from time to time. Each training period for such events lasts only 30 days with only 3 hours each day or 90 hours taken

each month for preparation and training. This leaves the rest of my time during this one month training period to devotion to and the performance of my ministerial duties. The number of times that I fight or have to fight each year in defense of my title is never enough for my training for bouts to take out of each year of my life an amount of time that keeps the ministry from being my main job or vocation in life. I still am able at the end of the year to show that I devote on the average of over 40 hours per week for 52 weeks per year to the performance of my ministerial duties.

The things of my ministry that take up over 90 per cent of my time (over 40 hours per week for 52 weeks per year) in the performance of my duties as minister of religion I list as follows:

(1) I am at the office of Muhammad Speaks in Chicago regularly writing for the religious paper Muhammad Speaks, the voice of my religion; and I also answer questions while I am there on my religion and my beliefs and encourage others to embrance my said religion.

(2) I answer a large amount of fan mail inquiring about my religion and try to convert such persons to my faith by such letters.

(3) I also, while at the office of Muhammad Speaks, answer questions as a minister by persons outside our faith.

(4) Spend time with Elijah Muhammad receiving instructions and making notes of his orders to me as to how to more effectively and efficiently carry out my ministerial duties.

(5) Spend time each day or evening before retiring studying the book by the Honorable Elijah Muhammad en-

titled "Message to the Black Man", the weekly periodical or paper entitled "Muhammad Speaks" and the Holy Quoran which enables me to more effectively and efficiently preach as a minister of religion.

(6) Time regularly spent each week on four meeting nights fishing for men to be saved by attracting crowds of people around me through street preaching and then invite them to come to and lead them to the meetings to hear a sermon on the beliefs and the religion of The Lost Found Nation of Islam. It is considered good if one gets as many as two people to come to a Muslim mosque from off the streets but I never bring less than five persons. On exceptional occasions in New York City, Detroit and Philadelphia as many as 320 persons have been brought by me. In Miami I average thirty people fished by street preaching; and in Chicago in thirty minutes I brought in twenty-seven new listeners to the meeting.

(7) Time doing call-back fishing work on days before and between meetings by personal visits and telephone calls to people at their homes and places of business fixing time and place to pick them up and bring them to the meetings.

(8) Time traveling from mosque to mosque and temple of The Lost Found Nation of Islam as a special representative traveling minister (in answer to calls by ministers of different mosques and temples throughout the United States) to visit them, draw large crowds by my fame and name as World Boxing Champion thus capitalizing on it for my religion as a minister to the limit. I use the World Heavyweight Championship title to increase attendance at various mosques and temples where I preach to them the doctrines and principles of The Lost Found Nation of Islam religion as taught by Elijah Muhammad.

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(9) In doing the work as a traveling minister I am not based or assigned to any one particular mosque or temple but I am given a roving commission or authority by Elijah Muhammad, our leader, to teach and preach to the big crowds that I draw wherever I go.

(10) While my ministry above described is that of a leader made so by the Honorable Elijah Muhammad he is, however, my leader and it is he that I look to as my spiritual guide and head and I represent him directly as a minister and ambassador for the religion of the Lost Found Nation of Islam as taught by the Honorable Elijah Muhammad, throughout the entire United States.

(11) I have been specially designated by The Honorable Elijah Muhammad to act as assistant to his son Herbert Muhammad, as special representative and ambassador, to the Islamic Nations in the Middle East such as Egypt, Saudi Arabia, Pakistan, Turkey, Lebanon and Syrian governments and a few of which I went to with Herbert Muhammad, as his assistant. Each of us being traveling ambassadors and ministers of The Lost Found Nation of Islam and of The Messenger Elijah Muhammad speaking, preaching and explaining all about our religion and our prophet The Honorable Elijah Muhammad. Herbert Muhammad and I spoke for 45 minutes at the invitation of President Nassar on the TV station in Cairo, Egypt; and we also together spoke at the thousand year old Alazar University and at the Islamic University at Cairo where 600 people listened to both of us speak. We told about the Honorable Elijah Muhammad and the religion of The Lost Found Nation as taught by him as The Messenger. We did this so as to show similarities between the Islamic Religion and The Lost Found Nation of Islam religion as

taught by Elijah Muhammad. We had three meetings with President Nassar to discuss the matter so that he could better understand and appreciate the great work of Elijah Muhammad. Almost every day while we were in Egypt I attended at least once a day at a mosque in Cairo and prayed and worshipped. The presidents of Lebanon and Syria invited Herbert Muhammad and me, as his assistant, to come to their countries as we had visited Egypt. President Nassar asked both of us to give The Honorable Elijah Muhammad his regards and best personal wishes. I was, while there, presented 75 Holy Quorans by the Islamic officials.

(12) While Herbert Muhammad and I were in the Middle East we were invited as ministers and ambassadors of The Honorable Elijah Muhammad to make a pilgrimage to the Holy City of Mecca by Prince Faisal of Saudi Arabia. He offered to open up and allow us the extraordinary privilege to enter the house that Abraham built. This is a holy place that thousands and thousands of Islamites would give anything to even see and touch and, here we were offered the right to actually enter it!

(13) Herbert Muhammad and I were invited to come to visit Istanbul, Turkey as guests of the Government and while there we were asked about our religion and questions answered as ministers. We were also invited to meet with the Supreme Council of Islam in Pakistan and explain to them about our religion and our leader The Honorable Elijah Muhammad. With the authorization of our leader we expect someday to respond to these various invitations and speak as ministers on the religion of The Lost Found Nation of Islam as taught by Elijah Muhammad, the messenger of Allah.

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(14) All of the above stated privileges and blessings that I have enjoyed since being recognized by The Honorable Elijah Muhammad would not have come to me had it not been for him as The Messenger to whom I am indebted for a new found life of doing good as a minister. I am privileged to contribute to the welfare of the black man in America by the new hope for them found in The Lost Found Nation. I would never have had the blessing and privilege of the honors bestowed upon me by the Islam World in the Middle East if it had not been for the Honorable Elijah Muhammad. I am proud of my new name, Muhammad Ali, given to me by the Honorable Elijah Muhammad. It is two of the attributes of Allah. That name has given to me great enthusiasm and a burning zeal as a teacher and preacher of the religion of The Lost Found Nation of Islam to teach and preach it far and wide using everything and every power to do it that I can draw from in my whole life, soul and body.

This has given me the conviction that I have a special message from The Honorable Elijah Muhammad for the welfare and peace of millions of my fellow black men in America as a regular minister of religion as defined in Section 16 (g)(1) and (g)(2) of Title I of the Universal Military Training and Service Act and Section 1622.43 (a)(2) and Section 1622.43 (b) of the Selective Service Regulations (32 C. F. R. 1622.43 (a)(2) (b)). I have been duly recognized by the head and leader of the religion known as The Lost Found Nation of Islam, the Honorable Elijah Muhammad and do regularly and customarily preach and teach the doctrines and principles of such religion as my vocation and not incidentally and not irregularly for an average of over 40 hours per week for 52 weeks per year.

I refer to and make a part hereof, the signed accompanying statement of The Honorable Elijah Muhammad and

Exhibit A-2

the signed statements of other persons also accompanying this statement irrefutably proving this fact. I request that the Honorable Judge Lawrence Grauman, Special Hearing Officer of the Department of Justice forward all of these said statements to the Honorable T. Oscar Smith, Assistant Attorney General, Department of Justice, Washington, D. C. who is especially requested to forward each and every one of said statements along with and attached to this my personal statement to the Kentucky Appeal Board and the Department of Justice if, as and when the recommendation of the Department of Justice is sent by the Assistant Attorney General to the Appeal Board.

The Appeal Board is also hereby requested to file all of the statements and consider them before classifying me and that the tentative classification made by the Appeal Board that caused the file to be sent to the Department of Justice be changed to Class IV-D.

In the alternative, the proper action by the Appeal Board should restore to me my I-Y Classification as required by Section 1622.17 of the Selective Service Regulations (32 C.F.R. 1622.17). The reason for this is that I was found by the Secretary of Defense at Washington, D.C., under standards of the Defense Department not currently qualified for service in the Armed Forces and qualified only in time of war or national emergency declared by the Congress and no such war or emergency has been declared by the Congress, and the Secretary of Defense has at no time reversed his finding that I should be put in I-Y. The local board and the officials at the induction station that conducted preinduction physical examination and declared me to be acceptable for service acted contrary to law in reversing the Secretary of Defense and deprived me of my rights contrary to the "fair and just" provisions of the

Exhibit A-2

Act and Section 1622.1(b) and (d) of the Selective Service Regulations (32 C. F. R. 1622.1(b) and (d)) when they took the I-Y Classification away from me and put me in Class 1-A which said classification is an illegal one.

I wish to apologize for not having, previously to this occasion, presented all of the above stated details on my sincerity as a conscientious objector and all of the facts showing that since the early part of 1964 until now I have been a regular minister of religion teaching and preaching the doctrines and principles of The Lost Found Nation of Islam as revealed by The Honorable Elijah Muhammad and that I have done my ministry as my vocation and not incidentally to anything else.

It is true that the local board did not have all these details but the failure at my personal appearance to give to it the details was due to my ignorance of the law and the regulations and the fact that my attorney, Edward Jacko, Esq., was not skilled as an expert in the Selective Service Law and did not understand or realize the legal significance of the facts of my life showing that I was a regular minister of religion under the Act and Regulations. Here and now since 1964 the above facts have existed and are real truths in my life showing my exemption as a minister. Due to these circumstances that were entirely beyond my control they were not previously presented to the local board or to the appeal board until now through this my statement.

I have only recently learned of my rights to the exemption as a minister of religion, although it existed since 1964. I was recently advised by Mr. Robert Arum, Esq., of New York City to confer with my new counsel who has properly and fully advised me of my rights as a minister, and this was the first time I had found out about my rights.

Exhibit A-2.

This is now my first opportunity to present the facts of my ministry in proof of my sincerity as a conscientious objector to the Selective Service System and the Department of Justice. These are new and vital facts which should be received. There has been no deliberate neglect on my part and the failure of my attorney, Edward Jacko, to properly and timely present my claim as a minister of religion in proof of my sincerity as a conscientious objector. It was due to excusable neglect and lack of expert experience in Selective Service matters on his part and I should not be penalized for his not having previously submitted all of this material to the local board.

There is still time and the "fair and just" provisions of the Act and of Section 1622.1 (b) (32 C. F. R. 1623.1 (b)) as well as the due process clause of the Fifth Amendment to the Constitution require that (1) the hearing officer forward all of the material that I submit to him to the Department of Justice; (2) that the Assistant Attorney General in Washington forward all of the same material to the Appeal Board; and (3) that the Appeal Board file the same and consider each and every one of said statements and documents together with all the rest of the file in determining the proper classification that I am entitled to under the Act and the Regulations.

This request is not made for the purpose of delay but is made only in order that justice may be done now instead of later and if it is not done now then greater delay will ensue because I will be compelled to request the local board for a reopening under Sections 1625.1 and 1625.2 of the Selective Service Regulations (32 C. F. R. 1625.1, 1625.2) and make a special application to the National Director of Selective Service to exercise his discretion and that he make a written request to the local board to reopen the

Exhibit A-2

case in my behalf in order to prevent great hardship and a greater injustice as he is authorized to do under Section 1625.3 of the Selective Service Reguations (32 C. F. R. 1625.3).

This procedure cannot be followed until after the return of the file to the local board and if granted then instead of now would result in a complete reprocessing of the case causing a much longer delay which could and would be avoided completely now by granting the request here made and do as requested in items (1), (2) and (3) at the beginning of this paragraph.

Respectfully submitted,

.....

MUHAMMAD ALI
(New name)

.....

CASSIUS MARCELLUS CLAY, JR.
(Slave name)

CERTIFICATE OF ATTORNEY

I, HAYDEN C. COVINGTON, an attorney at law who has been retained to represent the above-named registrant, do hereby certify that I prepared the above and foregoing document based on the facts given to me by the registrant as his attorney.

.....

HAYDEN C. COVINGTON
34-44 76th Street
Jackson Heights, New York 11372

Exhibit A-3

Cassius M. Clay, Jr.—Conscientious Objector
Hearing August 23, 1966

[EMBLEM]

IN THE NAME OF ALLAH

ELIJAH MUHAMMAD
Messenger of Allah
4847 South Woodlawn Avenue Chicago, Illinois 60515

July 28, 1966

The Selective Service System
Kentucky Appeal Board
and to the
Department of Justice
Washington, D.C.

Re: Local Board Registrant
Cassius M. Clay
No. 15-47-42-127
a/k/a Muhammad Ali

Gentlemen:

This statement of fact is to help you arrive at the correct classification of the above-named registrant who has conscientious objections to combatant and non-combatant military service as a regular practicing propagator, minister, evangelist and ambassador of the Nation of Islam (the lost found nation) a duly constituted and legally religious body of Islam in the United States of America of which I am the leader and messenger of Allah, having authority to appoint ministers, evangelists, and ambassadors of which Muhammad Ali is one in good standing, pursuing the ministry of Islam since I gave him the name of Muhammad Ali in 1964.

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In the religion of the Lost Found Nation of Islam I have been apointed the messenger of Allah to this my people (the lost and found) of the nation of Islam here in America who look to me for guidance and leadership. My word is bond as to the interpretation of the law and suidans of the religion of Islam as found in the Holy Qur-An.

The religion of the Nation of Islam requires its followers to believe in one god, Allah, his prophets, Abraham, Moses, Jesus, and Muhammad, the last messenger of Allah (God) and the scriptures that they bring to us to keep up constant prayer to Allah, and spend (give charity) in the cause of righteousness of Islam based on charity and love of truth of the brotherhood of the believers of the Nation of Islam doing nothing to any person that he would not have done unto himself.

Each and every one of the Lost Found Nation of Islam must have and practice self-respect and respect of others and must obey those in authority over him whether believer or non-believer in government so long as the orders and commands do not require one of the Nation of Islam to do something that conflicts with the law of Allah as it appears in the Holy Qur-An and expounded by the teachers of Islam and myself throughout the world. The law of Allah does not permit a Muslim to be an aggressor, fight only those who fight with Muslims, the law of Islam further discredits a Muslim as being a Muslim who will fight on the side of a non-Muslim though he may be his near of kin, or wars of unbelievers or whether such wars are between disbelievers of Islam or against Islam (the Muslims), of any nation other than Islam or to bear arms in the armed forces of any nation other than Islam or to perform any non-combatant service or work of any kind under the di-

rection of the authorities acting under any conscription of law of war or fighting others, the beliefs of the Lost Found Nation of Islam.

Islam means peace. A Muslim is one who has made peace with God and man. The greeting of one Muslim to another is peace "as salaam akaikum" which means peace be unto you. When given, the greeting calls for a response of peace "wa alaikum salaam," which means peace be unto you or literally to be at peace.

According to that taught by the Holy Qur-An, a Muslim is one who faithfully practices the teaching of the religion.

It is the duty of each Muslim to propagate the faith and if he does not propagate or spread the faith, he is not a good Muslim. Each one must live and carry into practice the principle of the religion of Islam. Belief in Allah means nothing unless carried into action and practice. Muslim, is a name given to those who believe by Abraham (Holy Qur-An 22:78) means one who submits to the will of Allah (God).

Each Muslim is required to teach people of peace that the religion of Islam teaches. This attendance at the mosque is to help speed up the job of the propagator. Everyone is the same and on the same basis as the propagator, minister or evangelist. Our field or the field of each Muslim propagator is the world at large or mankind at large. Each Muslim must respect self and others. It is incumbent upon all the lost found Muslims to evangelize. We believe in the principles expressed in the Bible where Jesus said, "I will make you fishermen of men" applies to each Muslim because we are under obligations to gather out or fish for the lost found believers which means to get them into the

Exhibit A-3

religion of peace, "Islam." The conversion work is two-fold: (1) support the meetings and (2) talk to interested persons and bring them to the meetings after each believer fishes them out of the world of mankind symbolic of pulling them out of a lake of fire. (Bible: Jude 23) (Holy Qur-An; on a Brink of Fire).

Muslims believe in all the prophets of Allah (God) such as Abraham, Job, Noah, Jeremiah, Moses, Jesus, Daniel and Muhammad, and all the scripture that they brought to us.

The attributes (name) of God is wisdom based on knowledge and the only way one can have that attribute of God is to get knowledge which comes by study. This is why he must be a believer or one born of Allah by nature.

Our Muslim schools are established. All Muslims seek to educate children in their own schools under a believing teacher of Islam. In Islam the child must be taught the knowledge of self and his religion, Islam and history of the world before entering into said other teachings. Religion and education go together.

The Muslims—or believers worship places are called mosques and temples. Mosque means a prayer house. A temple is where teaching is carried on.

In our schools, the boys and girls—after the age of 6—are separated and taught in class rooms to self. We must have, and do have, an orderly arrangement. Just as the heavenly bodies are regulated, controlled and in their respective orbits submissive to the attraction of sun, so is the Nation of Islam to Allah.

Each Muslim is to try and attend the teachings of history and religion: Wednesdays, Fridays, and Sundays—if health

Exhibit A-3

and business permits them. Muhammad Ali attends such meetings regularly and customarily preaches at such meetings. He is a very sincere minister.

I am permitted to confer the attributes (names) of Allah on my faithful laborers.

Some of my main authority is sometimes delegated to preside over any mosque of believers that I am the head of to keep them active in fishing for men from the lake of fire which means the world of mankind outside of Islam. I have delegated to Muhammad Ali the permission to preach at all our mosques in the United States.

There is no compensation to the teachers of Islam. Muhammad Ali is not paid for preaching. But, he is not prohibited from accepting charity, as all ministers who are confined in the way of Allah must be cared for from the charity of the believers. It is spelled out in the Holy Qur-An that it is the duty of each Muslim to spend or give all that he can in the cause of Islam, and Muhammad Ali spends over 90 per cent of all of his time to study and preaching the doctrines and principles of his religion publicly and at every time and place he finds a person with a listening ear which makes his ministry his vocation in life.

It is the prayer of each Muslim that "my prayer and my sacrifice, my life and my death is all for Allah." This means that each Muslim must fish for men by preaching and propagating the faith to save others from the lake of fire as faithful followers of Allah. Muhammad Ali has accepted this duty.

/s/ ELIJAH MUHAMMAD
Messenger of Allah
Elijah Muhammad.

Exhibit B

Cassius M. Clay, Jr.—Conscientious Objector
Hearing August 23, 1966

MUHAMMAD SPEAKS, AUGUST 26, 1966, p. 28

The Messenger of Allah Presents

THE MUSLIM PROGRAM

WHAT THE MUSLIMS WANT

This is the question asked most frequently by both the whites and the blacks. The answers to this question I shall state as simply as possible.

1. We want freedom. We want a full and complete freedom.

2. We want justice. Equal justice under the law. We want justice applied equally to all, regardless of creed or class or color.

3. We want equality of opportunity. We want equal membership in society with the best in civilized society.

4. We want our people in America whose parents or grandparents were descendants from slaves, to be allowed to establish a separate state or territory of their own—either on this continent or elsewhere. We believe that our former slave masters are obligated to provide such land and that the area must be fertile and minerally rich. We believe that our former slave masters are obligated to maintain and supply our needs in this separate territory for the next 20 to 25 years—until we are able to produce and supply our own needs.

Since we cannot get along with them in peace and equality, after giving them 400 years of our sweat and blood and

receiving in return some of the worst treatment human beings have ever experienced, we believe our contributions to this land and the suffering forced upon us by white America, justifies our demand for complete separation in a state or territory of our own.

5. We want freedom for all Believers of Islam now held in federal prisons. We want freedom for all black men and women now under death sentence in innumerable prisons in the North as well as the South.

We want every black man and woman to have the freedom to accept or reject being separated from the slave master's children and establish a land of their own.

We know that the above plan for the solution of the black and white conflict is the best and only answer to the problem between two people.

6. We want an immediate end to the police brutality and mob attacks against the so-called Negro throughout the United States.

We believe that the Federal government should intercede to see that black men and women tried in white courts receive justice in accordance with the laws of the land—or allow us to build a new nation for ourselves, dedicated to justice, freedom and liberty.

7. As long as we are not allowed to establish a state or territory of our own, we demand not only equal justice under the laws of the United States, but equal employment opportunities—Now!

We do not believe that after 400 years of free or nearly free labor, sweat and blood, which has helped America become rich and powerful, that so many thousands of black people should have to subsist on relief, charity or live in poor houses.

Exhibit B

8. We want the government of the United States to exempt our people from ALL taxation as long as we are deprived of equal justice under the laws of the land.

9. We want equal education—but separate schools up to 16 for boys and 19 for girls on the condition that the girls be sent to women's colleges and universities. We want all black children educated, taught and trained by their own teachers.

Under such schooling system we believe we will make a better nation of people. The United States government should provide, free, all necessary text books and equipment, schools and college buildings. The Muslim teachers shall be left free to teach and train their people in the way of righteousness, decency and self respect.

10. We believe that intermarriage or race mixing should be prohibited. We want the religion of Islam taught without hinderance, or suppression.

These are some of the things that we, the Muslims, want for our people in North America.

WHAT THE MUSLIMS BELIEVE

1. WE BELIEVE in the One God Whose proper Name is Allah.

2. WE BELIEVE in the Holy Qur-an and in the Scriptures of all the Prophets of God.

3. WE BELIEVE in the truth of the Bible, but we believe that it has been tampered with and must be reinterpreted so that mankind will not be snared by the falsehoods that have been added to it.

4. WE BELIEVE in Allah's Prophets and the Scriptures they brought to the people.

Exhibit B

5. We Believe in the resurrection of the dead—not in physical resurrection, but in mental resurrection. We believe that the so-called Negroes are most in need of mental resurrection; therefore, they will be resurrected first.

Furthermore, we believe we are the people of God's choice as it has been written, that God would choose the rejected and the despised. We can find no other persons fitting this description in these last days more than the so-called Negroes in America. We believe in the resurrection of the rignteous.

6. We Believe in the judgement; we believe this first judgement will take place as God revealed, in America . . .

7. We Believe this is the time in history for the separation of the so-called Negroes and the so-called white Americans. We believe the black man should be freed in name as well as in fact. By this we mean that he should be freed from the names imposed upon him by his former slave masters. Names which identified him as being the slave master's slave. We believe that if we are free indeed, we should go in our own people's names—the black people's of the earth.

8. We Believe in justice for all, whether in God or not; we believe as others, that we are due equal justice as human beings. We believe in equality—as a nation—of equals. We do not believe that we are equal with our slave masters in the status of "freed slaves."

We recognize and respect American citizens as independent peoples and we respect their laws which govern this nation.

9. We Believe that the offer of integration is hypocritical and is made by those who are trying to deceive the

black peoples into believing that their 400-year-old open enemies of freedom, justice and equality are, all of a sudden, their "friends." Furthermore, we believe that such deception is intended to prevent black people from realizing that the time in history has arrived for the separation from the whites of this nation.

If the white people are truthful about their professed friendship toward the so-called Negro, they can prove it by dividing up America with their slaves.

We do not believe that America will ever be able to furnish enough jobs for her own millions of unemployed, in addition to jobs for the 20,000,000 black people as well.

10. WE BELIEVE that we who declared ourselves to be righteous Muslims, should not participate in wars which take the lives of humans. We do not believe this nation should force us to take part in such wars, for we have nothing to gain from it unless America agrees to give us the necessary territory wherein we may have something to fight for.

11. WE BELIEVE our women should be respected and protected as the women of other nationalities are respected and protected.

12. WE BELIEVE that Allah (God) appeared in the Person of Master W. Fard Muhammad, July, 1930; the long-awaited "Messiah" of the Christians and the "Mahdi" of the Muslims.

We believe further and lastly that Allah is God and besides HIM there is no God and He will bring about a universal government of peace wherein we all can live in peace together.

Transcript of District Court's Oral Findings

(Rendered June 20, 1967)

The Court:

Well, I have read the draft board file and I have reached the conclusion there is ample evidence in the file to support the action of the draft board. Mr. Covington has said basis in fact must be found in the draft board file, and I think it [310] is found here.

Now, just to summarize some of the evidence that I find that I conclude does support the action of the draft board, first I want to describe the file. I am doing this for the record, not because counsel on either side need it described for them. You know it as well as I do. It is not the neatest of files. There are many pages in it. To begin with there is I think the main portion of the file, just a group of loose sheets in the file and they are not arranged chronologically. They are numbered for convenience and identification consecutively as they appear in that file, but they are not in any chronological or other logical form, logical sequence.

I will ask that we have order in the courtroom. I do not intend to be facetious and what I say is not calculated to inspire laughter and what I had to say is serious. At [311] least it is serious to me and I am sure it is serious to the Defendant and I hope it is serious to prosecution.

I am going to refer to these pages by the pencil figures that appear thereon. In other sections of the file there is pointed out there is quite a volume of petitions signed by brothers of the Defendant's religious faith. Most of them are on mimeographed forms. There are some variations in the forms. You will find one form an identical form with many signatures on those petitions, and then another form. I read the various forms and observed that there are quite

a number of signatures. I will take counsel's word for the number of signatures appearing thereon. I did not count the signatures. I did observe there are quite a volume of them.

Then there are those other miscellaneous—what Mr. Covington [312] has referred to and I refer to as crank letters of people advising the draft board what to do, just as I have received many advising me what I should do. I did not even read them. I have asked my secretary to file them according to states. If we ever have to refer to them, we will refer to them in that way. I don't anticipate that we will.

I will say for the record out of the presence of the jury that I have received quite a volume of what I call crank mail and have received some telegrams. Most of them start off with the statement that they are not presuming to tell me what to do, and then they proceed to do that. That is the form of most of the letters I receive asking for jury excuses. In paragraph 1 they protest how conscientious they are of their civic responsibility and in paragraph 2 why they don't want to serve.

Proceeding further, in referring [313] to matters in the file which I believe prove the basis in fact for the action of the draft board, and I'm not referring to any crank letters, I am not referring to newspaper clippings, and again I want to say that these letters are not arranged chronologically and I am referring to them in the order in which they appear in the file, which is not a chronological order.

On page 260 is a letter dated October 19, 1966. This was after the Defendant has made his claim for ministerial exemption. It is a typewritten letter and it is signed by the registrant, the Defendant himself, and in that letter addressed to the draft board he asks leave to go to Mexico to negotiate a fight and to observe his prospective opponent

in action. He didn't say anything in that letter that he was going there to preach the word of Allah or to seek converts, but his request to [314] leave the country to go to Mexico was to negotiate a fight and to observe his prospective opponent in action. I think that would give some support to the finding of the draft board that he was a professional boxer as he claimed to be.

Then on page 467 is another letter, typewritten letter, signed by the registrant, the Defendant Clay, dated July 7, 1966. This letter was before his claim for ministerial exemption. The previous one was after. In that letter he asked leave to go to England to defend his world heavy weight championship and he also advised in that letter he would later want to go to Germany to defend his title there.

But again in the letter to the draft board the proposition of his projected visits out of the country to England and to Germany to defend his heavy weight championship. Again, he made no mention that he was going to those countries or that he would be going to those countries to preach the word [315] of Allah.

Then at page 458 is another letter, typewritten and signed by registrant, Defendant Clay, dated August 8, 1966, which was a short time before he made his claim for ministerial exemption. In that letter he asked leave to go to Germany to defendant [*sic*] his world heavy weight championship. He stated in his letter previously that he would have such a request. In July he told them he would have a request to go to Germany and, true to his word, he did have such a request to go there, and why, to defend his world heavy weight championship there. Again, the request was not to go there for the purpose of preaching the word of Allah.

Then page 474 is another letter in his own handwriting signed by the registrant, Defendant Clay. This letter is dated April 26, 1966, and in this letter he asked to go to [316] England to defend his world heavy weight boxing title. Again, no mention that he wanted to go there to preach the word of Allah.

At page 491 is another letter in his own handwriting and signed by the registrant, Defendant Clay, dated March 17, 1966, in which he protests the reclassification by the draft board and in his letter he states the reasons he does so protest. He protests his reclassification for the reason that the reclassification has and does at this time impose great hardship upon me as heavy weight champion of the world now at age 24. He asked the draft board to reconsider his classification. That is his protest, because of hardship. He says nothing there about a ministerial exemption.

Then at page 504, letter dated April 16, 1966 in his handwriting, signed by the registrant, Defendant Clay. This is a month later than the [317] previous letter. Again, he protests his reclassification for the following reasons:

A, he says he is the sole support of his mother. B, because he had just gone through an expensive divorce and made a settlement of $150,000 on his wife and was required to pay her $12500.00 per month alimony, the conclusions being he couldn't do that on a soldier's pay. But, again, he protests his reclassification for entirely different reasons. I don't know why he didn't think then to claim that he was a minister, but he did not.

Then at page 524 appears another letter dated February 14, 1966, in his own handwriting. The letter is signed by

the registrant, Defendant Clay. He protests his reclassification for the following reasons:

One, my occupation is professional boxer—and he goes on with that explanation. Two, that he married August 14, 1964, divorced January 11, [318] 1966 because his wife failed to comply with her premarital agreement as to the tenets of the Muslim faith. Then a divorce was expense. Three, that he is a devout Muslim and has convictions also against killing or bearing arms. Now, in this letter he protests his Muslim faith, his Muslim religion, but he does not say he is a minister. He says that his marriage broke up because his wife did not follow through with her premarital agreement with the tenets of his faith, the Muslim faith, and then he says that he is a devout Muslim and has conscientious scruples against killing or bearing arms, but he makes no claim to being a minister.

Now, we are well aware that the Selective Service Act recognizes conscientious objectors. As I remember it, a conscientious objector may be assigned to non-combatant duty in the armed forces of the United States or he may be assigned [319] to work of national importance under civilian direction. But that problem has never been brought to you. I don't think he has said in so many words, "I am a conscientious objector, I do not believe in killing or bearing arms and therefore I want to be assigned to non-combatant duty or to work of national importance under civilian direction."

I think the basis in fact for the action of the draft board is amply supported by the evidence appearing in the file, and I find that there was basis in fact for such action. I deny the motion for acquittal upon all of the grounds asserted.

It is now five minutes after four. How much time will you gentlemen want to present your arguments?

First Opinion of the Court of Appeals

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 24991

CASSIUS MARSELLUS CLAY, JR.,

Appellant,

versus

UNITED STATES OF AMERICA,

Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

(May 6, 1968)

Before COLEMAN, AINSWORTH and DYER, *Circuit Judges.*

AINSWORTH, Circuit Judge: "It may not be doubted that the very conception of a just government and its duty to the citizen includes the reciprocal obligation of the citizen to render military service in case of need and the right to compel it." Chief Justice Edward Douglass White, *Selective Draft Law Cases*, 245 U. S. 366, 378, 38 S. Ct. 159, 161 (1918).

Cassius Marcellus Clay, Jr., also known as Muhammad Ali, heavyweight professional boxing champion of the world, was convicted after trial by jury on an indictment charging violation of 50 U.S.C. App. § 462, for knowingly and wilfully refusing to report for and submit to induction into the armed forces of the United States. Clay's

draft case has been through practically every phase of selective service procedure, beginning with the date he registered on April 18, 1960, until he was ordered to report but declined to submit to induction on April 28, 1967, and was thereafter convicted by jury trial held on June 19, 20, 1967. On four different occasions he was classified 1-A (Available for military service) by his local board, twice by two different appeal boards (in Kentucky and Texas) and once by the National Selective Service Appeal Board (the Presidential Appeal Board). In every instance the vote of the boards was unanimous.

There has been no administrative process which Clay (Ali) has not sought within the Selective Service System, its local and appeal boards, the Presidential Appeal Board and finally the federal courts, in an unsuccessful attempt to evade and escape from military service of his country. Being entirely satisfied that he has been fairly accorded due process of law, and without discrimination, we affirm his conviction.

The pertinent but lengthy chronology of his case follows:

April 18, 1960—Clay (Ali) registered for selective service with Local Board No. 47, Louisville, Kentucky.

March 9, 1962—Registrant was classified 1-A by Local Board No. 47, Louisville, Kentucky.

March 26, 1964—Registrant was classified 1-Y as a result of a physical examination, as being not acceptable for induction in the armed forces and not qualified under current standards.

February 17, 1966—Registrant was reclassified 1-A by Local Board No. 47, Louisville, Kentucky, after having been considered by the Examining Station in accordance

with current regulations and found fully acceptable for induction.

February 18, 1966—1-A classification notice was mailed to registrant. Clay (Ali) was furnished Special Form for Conscientious Objector (SSS Form 150).

February 28, 1966—Special Form for Conscientious Objector was filed by registrant with the local board. This was the first time such a claim had been made. Registrant requested a personal appearance before the local board in reference to the change of his classification from 1-Y to 1-A.

March 17, 1966—The local board granted a personal appearance before it by registrant and again classified him 1-A.

March 28, 1966—Registrant appealed the 1-A classification to the Kentucky Appeal Board.

May 6, 1966—The Kentucky Appeal Board reviewed the file de novo and tentatively determined that the registrant was not entitled to the 1-O, conscientious objector or lower, classification. The complete file was referred to the Department of Justice for an advisory recommendation as provided by Selective Service Regulations (32 C.F.R. § 1626.25), and an investigation by the Federal Bureau of Investigation was requested by the Department.

August 23, 1966—Registrant filed a letter request with Local Board No. 47, Louisville, Kentucky, for reclassification to IV-D as a minister of the Lost Found Nation of Islam (Black Muslims).

August 23, 1966—The FBI investigation having been made, a special hearing was held in Louisville, Kentucky,

to consider registrant's conscientious objector claim. The Hearing Officer reported his belief that the registrant was sincere in his conscientious objector claim.

November 25, 1966—The Department of Justice, Office of Legal Counsel, Conscientious Objector Section, recommended to the Kentucky Appeal Board that the request of the registrant for conscientious objector status be denied. Registrant was mailed a copy of the recommendation on November 29, 1966.

January 10, 1967—The Kentucky Appeal Board denied the requested conscientious objector claim and notified the registrant that he was classified 1-A.

January 12, 1967—Local Board No. 47, Louisville, Kentucky, reviewed the registrant's complete file but declined to reopen his classification. The board agreed unanimously that registrant was not entitled to the IV-D ministerial exemption.

January 19, 1967—Pursuant to the written request of General Lewis B. Hershey, the National Director of Selective Service, Local Board No. 47, Louisville, Kentucky, reopened and considered anew the classification, including the claim for ministerial classification, and after re-examining the registrant's file again classified him 1-A, and notice of classification was mailed to registrant.

January 26, 1967—Registrant appealed the 1-A classification and requested that the Appeal Board for the Southern District of Texas (the place of his current domicile at Houston, Texas) hear the appeal.

February 15, 1967—The Appeal Board for the Southern District of Texas classified registrant 1-A and returned

his file to Kentucky on February 20, 1967, after finding that no new information had been submitted relating to his conscientious objector claim, and having considered and rejected his claim for ministerial exemption.

February 24, 1967—The National Director of Selective Service, General Lewis B. Hershey, appealed the registrant's classification to the National Selective Service Appeal Board (the Presidential Appeal Board). (See 32 C.F.R. § 1627.1 for the authority of the National Director to do so.) Registrant could not file such an appeal because the regulations (32 C.F.R. § 1727.3) require that one or more members of the appeal board dissent from the classification before a registrant has such a right to file the appeal himself.

March 6, 1967—The Presidential Appeal Board unanimously voted to classify the registrant 1-A, and a copy of "Minutes of Action Upon Appeal to the President" was forwarded to the local board on March 14, 1967.

March 14, 1967—Local Board No. 47, Louisville, Kentucky, ordered the registrant to report for induction on April 11, 1967, at Louisville, Kentucky.

March 24, 1967—Registrant requested a transfer of induction to Houston, Texas, which was granted by Local Board No. 61 at Houston.

March 29, 1967—Local Board No. 61, Houston, Texas, ordered registrant to report to it on April 28, 1967, for delivery to the induction station.

April 28, 1967—Registrant reported for but declined to submit to induction on the grounds of his religious beliefs as a minister of the Islam Religion.

May 8, 1967 Registrant was indicted for violation of 50 U.S.C. App. §462.

June 19, 20, 1967 Registrant was tried and convicted by a jury of the selective service violation for refusing to submit to induction, and sentenced to five years' imprisonment and a fine of $10,000.[1] This is his appeal from the conviction and sentence.

Clay (Ali) has no prior criminal record and no previous charges or convictions for crime, other than minor traffic violations.

The registrant has, therefore, exhausted every administrative remedy provided by Selective Service. He has also fully pursued his rights in the United States courts in a vain attempt to stop his induction before his trial and conviction in the present case.

In Kentucky, registrant, who is a Negro, filed suit in the United States District Court for the Western District of Kentucky to prevent his induction into the armed forces. In his suit he sought a declaration that the Universal Military Training and Service Act is unconstitutional on its face and as applied because of "systematic exclusion" of Negroes from membership on draft boards; also, for an injunction to restrain all draft boards in Kentucky, from performing their function until Negroes were appointed to boards in proportion to their ratio to

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[1] The District Judge said in this regard:

"Well, I am going to impose the maximum penalty because under the rules at the end of an appeal if it is reversed, why, of course it is nil. If it is affirmed it is then subject to motion to reduce, and I find that we get into problems when clemency is given at the time of sentencing and then following an affirmance there is another petition for clemency." (R. 277)

the population. He sought to enjoin further classification and induction of Negroes until this had been accomplished. The District Court denied relief, holding that no evidence had been submitted and no contention made that Clay (Ali) had been deprived of any right of appeal or other administrative process of Selective Service; that there was no evidence that he had personally been singled out and subjected to punitive action or other discriminatory treatment by the System. The District Court said that the issues were not appropriate for judicial review until the registrant either submitted to induction or refused to submit to induction, at which time the issues could be raised either by habeas corpus or in defense to a criminal prosecution. The District Court also held that except in rare circumstances, not present here, it was not the function of the judiciary to enjoin the operation or enforcement of the Universal Military Training and Service Act. A stay of injunction pending appeal was refused. *Muhammed Ali* v. *Breathitt*, D. C., W. D. Ky., 1967, 268 F. Supp. 63. Registrant petitioned the Sixth Circuit for leave to appeal and for temporary restraining order pending appeal, which was denied, the Court taking cognizance of the District Judge's denial of a certification that immediate appeal was warranted and the denial of an order staying proceedings (Unpublished opinion, 6 Cir., Docket No. 17787, March 28, 1967.) The Sixth Circuit, on April 17, 1967, denied registrant's application for an order staying orders of the District Court and for an injunction pending appeal. (Unpublished opinion, 6 Cir., Docket No. 17834.) On the same day, the Supreme Court denied registrant's application for stay of the order of the United States District Court for the Western District of Kentucky, for injunction pending appeal and

denied leave to file a petition for mandamus. *Muhammad Ali* v. *Gordon*, 386 U. S. 1002, 87 S. Ct. 1365 (1967). Rehearing was denied by the Supreme Court on April 24, 1967. 386 U. S. 1027, 87 S. Ct. 1388. On the same day, the Supreme Court also denied petition for writ of certiorari to the Sixth Circuit. *Muhammad Ali* v. *Gordon*, 386 U. S. 1018, 87 S. Ct. 1376.

In Texas the registrant filed a similar suit in the United States District Court, Southern District of Texas, raising substantially the same legal contentions as those in the Kentucky suit. The District Court (Judge Hannay) denied relief and ruled that the selectee's remedy could only arise after the final step toward military induction and should he refuse this step, his remedy would lie in whatever defense he claimed in the criminal prosecution. The District Judge said that a second remedy available was that of habeas corpus in the event the selectee should take the final step toward military induction while claiming that his induction was illegal, unconstitutional and void. *Muhammad Ali* v. *Connally*, D. C., S. D. Tex., April 28, 1967, 266 F. Supp. 345.

The registrant appealed from the District Court decision. He also filed application to stay and for interim injunction pending appeal, which was denied by the District Judge. He then petitioned Judge John R. Brown of the Fifth Circuit (now Chief Judge) for injunction pending appeal, which was denied,[2] and the matter was then re-

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[2] Judge Brown in detailed reasons for his refusal (unpublished opinion) said in part:

> "I conclude that on traditional principles the equities—which includes the public interest—argue against such relief. I would not intimate what the intrinsic merits are—but I am

ferred to a panel of this Court (Judges Gewin, Coleman and Simpson), which also denied the motion for stay and injunction pending appeal. (Unpublished order, 5 Cir., Docket No. 24714, May 11, 1967.)

After refusing induction on April 28, 1967, appellant filed another suit in the United States District Court, Southern District of Texas, on April 29, 1967, for similar relief, which was denied on May 1, 1967 by Judge Seals for substantially the same reasons assigned by Judge Hannay in the prior case, the District Judge being of the opinion that the subsequent refusal of induction did not suffice to create a remedy for injunctive relief. At the same time an application for a stay and for an interim injunction to the District Court pending appeal was also denied. A panel of the Fifth Circuit (Judges Gewin, Coleman and Simpson), on May 11, 1967, thereafter denied a motion for stay or injunction pending appeal of Judge Seals' decision. (Unpublished order, 5 Cir., Docket No. 24723.)

Appellant, having been indicted on May 8, 1967 for the selective service violation, then petitioned the Fifth Circuit for a writ of prohibition to restrain the impending

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convinced that the chances of success on appeal are so remote that I ought not to grant it.

. . . .

"Balancing these factors I do not think that the courts should intervene to test, on the application of every registrant, the statutory validity of the process. The law will not finally ever compel the unlawful conscription of a citizen or permit criminal punishment for failure to submit to unlawful orders. That inconvenience, hardship or risk may be suffered if and until Congress prescribes other remedies—one of the perils of civilization and citizenship in a nation which calls on its citizens for the protection of its national and international interests."

trial, which petition was denied by a panel of this Court (Judges Tuttle, Washington and Simpson) on May 15, 1967. (See unpublished order, 5 Cir., in Docket No. 24750).[3]

We summarize the principal questions for decision as follows:

1) Was the selective service induction order to appellant invalid because of alleged systematic exclusion of Negroes from draft boards?

2) Did the District Court err in refusing to grant appellant's request for the production of certain documentary and other evidence?

3) Was there a basis in fact for the denial to appellant of a ministerial exemption?

4) Was there a basis in fact for the denial to appellant of conscientious objector status?

5) Did the proceedings as a whole, selective service and judicial, constitute a prohibited bill of attainder?

I.

The Alleged Systematic Exclusion of Negroes From Selective Service Boards

The Selective Service System is based on the constitutional provision which grants to Congress the power "To raise and support Armies . . ." U. S. Const. art I, § 8(12).

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[3] The appeal to the Fifth Circuit from Judge Hannay's ruling (Docket No. 24714) was dismissed for want of prosecution on July 28, 1967; and the appeal from the ruling of Judge Seals (Docket No. 24723) was dismissed for want of prosecution on September 5, 1967.

The Universal Military Training and Service Act provides (50 U.S.C. App. § 460(b)(3)) that the President is authorized to create civilian local boards and appeal boards. Each local board shall consist of three or more members to be appointed by the President from recommendations made by the respective governors of each of the states. No member of any local board shall be a member of the armed forces but each member shall be a citizen residing in the local board jurisdiction. Appeal boards shall also be composed of citizens who are not members of the armed forces and consist normally of five members appointed by the President upon recommendation of the governor. The appeal board shall be a composite board representative of the activities of its areas and shall include one member from labor, one member from industry, one physician, one lawyer and, where applicable, one member from agriculture. (32 C.F.R. § 1604.22.)

Thus the racial composition of the local and appeal boards about which appellant complains, because of the absence of a proportion of Negroes in accordance with their ratio to the population, results from appointment by the President upon recommendation of the governor of each state. The appointments are therefore federal, not state.

There is also a National Selective Service Appeal Board (sometimes called the Presidential Appeal Board) composed of three members who are appointed by the President from citizens who are not members of the armed forces. This board acts for the President himself, being vested with the functions and duties of the President provided by the Act (50 U.S.C. App. § 460(b)(3)), which reads in pertinent part as follows:

> "The President, upon appeal or upon his own motion, shall have power to determine all claims or questions with respect to inclusion for, or exemption or deferment from training and service under this title, and the determination of the President shall be final."

This board shall be in all respects independent of the Director of Selective Service. (32 C.F.R. § 1604.6(a), (b), (c).) It was stipulated in the present record that one of the three members of the Presidential Appeal Board was a Negro. However, there was no Negro member on any of the local or appeal boards which considered appellant's draft case.

According to the report of the National Advisory Commission on Selective Service (the Marshall Commission), in Kentucky, only 0.2% of 641 local board members is Negro, though 7.1% of the total population is Negro. In Texas, only 1.1% of local board members is Negro, though 12.4% of the total population is Negro. In the City of Louisville, the total population (1964) is 389,044, of which the white population is 310,717 and the Negro population 78,245, or 21% of the total population.[4] The Jefferson County, Kentucky, total population (1960) number 610,947, of which there are 532,057 whites and 78,350 Negroes, or 12.8% of the total population. In Harris County, Texas, of a total population of 1,243,158, 19.81%, or 246,351, is Negro.[5]

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[4] Appellant's brief asserts the Negro population of Louisville (1964) to be 78,327 and the percentage of Negroes to be 20.1%—a slight error. The difference is, of course, not significant. See Special Censuses, Series P-28, No. 1377, Louisville, Kentucky (United States Department of Commerce).

[5] Appellant in brief supplies other calculations from the record as follows: 9.60% of the total population of the Western District of Kentucky is Negro; 14.25% of the total population of the Southern District of Texas is Negro.

According to the Marshall Commission Report, the unequal percentage of Negroes on draft boards was not peculiar to Kentucky, Texas or the South, but the imbalance was nationwide. Only in the District of Columbia and in Delaware were there substantial percentages of Negroes on the boards. In twenty-three states, there were no Negroes on draft boards, the Report stated.[6]

Nevertheless the Marshall Commission said significantly in its report, "There is no evidence that the variability of the Selective Service System leads to any systematic biases against poor people, or Negroes, insofar as the final proportion of men serving in the Armed Forces is a measure of this."

As a direct result of the Marshall Commission Report, the President in his message to the Congress on Selective Service dated March 6, 1967, instructed the Director of the Selective Service System to work with the governors "to assure that all local boards are truly representative of the communities they serve and to submit periodic reports on the progress in this area."

The Universal Military Training and Service Act in its congressional declaration of policy declares that the obligations and privileges of serving in the armed forces should be shared generally in accordance with a system of selection which is "fair and just" (50 U.S.C. App. § 451(c)). The Act further provides (50 U.S.C. App. § 455(a)) that "The selection of persons for training and service . . . shall be made in an impartial manner, under such rules and regulations as the President may prescribe, from the persons who are liable for such training and service and who at the time of selection are registered and classified, but

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[6] For example, there were no Negroes on draft boards in such states as Indiana, Iowa, Kansas, Maine, Minnesota, New Jersey and Rhode Island.

not deferred or exempted: *Provided*, That in the selection of persons for training and service under this title . . . , and in the interpretation and execution of the provisions of this title . . . , there shall be no discrimination against any person on account of race or color: . . . ."

The Selective Service Regulations (32 C.F.R. § 1622.1(d)) provide, "In classifying a registrant there shall be no discrimination for or against him because of his race, creed, or color, or because of his membership or activity in any labor, political, religious, or other organization. Each such registrant shall receive equal justice."

Appellant argues that the quoted statistics evidence racial exclusion in the composition of draft boards, in violation of the Fifth Amendment. He cites *United States* v. *Jefferson County Board of Education*, 5 Cir., 1966, 372 F. 2d 836, 837, aff'd on rehearing, en banc, 380 F. 2d 385 (1967), cert. denied, sub nom. *Board of Education of the City of Bessemer* v. *United States*, 389 U. S. 840, 88 S. Ct. 77 (1967), where this Court said that it has frequently relied on percentages in jury exclusion cases and in other civil rights cases for evidence of deliberate discrimination against Negroes. He concludes that if systematic exclusion of Negroes is constitutionally barred in the composition of juries, their exclusion in the Selective Service System likewise infringes his rights and requires a holding that draft boards, such as those in Kentucky and Texas which considered appellant's case, have no jurisdiction over appellant or in fact over any Negro. Thus he argues that the local boards have acted beyond their jurisdiction and may not act as to that class of registrants (including appellant) against whom it is claimed the appointing process has discriminated. Appellant concedes that considerable progress in rectifying this disparity in the several states has been

made since the President's March 6, 1967, message to Congress on Selective Service, but contends that Negroes should not be selected in the future until the alleged systematic exclusion of members of that race from draft boards has ceased.

Appellant likens his classification and induction into the armed forces to a criminal prosecution because, as in a criminal prosecution, the Government restrains a registrant of his liberty and may even cause his death by sending him into combat.

No court has held, so far as we can determine, nor do we here, that a Negro registrant for selective service is entitled to be classified and inducted by a selective service board composed of a percentage of Negro members which the Negro population bears to the total population, or that a board lacks jurisdiction of a registrant unless so constituted. No question is raised that the boards which considered appellant's classification were not regularly and properly constituted under appointment by the President, recommended by the governor. We do not justify the failure to include substantial numbers of Negroes on such boards. The Selective Service System must not only be fair, it must likewise have the appearance of fairness. Negro draftees should be selected for military service by a system which gives Negro citizens a full participation in the selection process. The Marshall Commission affirmed the necessity of greater participation by Negroes who are underrepresented as a class on local draft boards. The Commission said that the Negro's position in the military manpower situation is in many ways disproportionate, even though he does not serve in the armed forces out of proportion to his percentage to the population. The President in his March 6, 1967, message to Congress said in this

regard: "The Nation's requirement that men must serve, however, imposes this obligation: that in this land of equals, men are selected as equals to serve. A just nation must have the fairest system that can be devised for making that selection." We concur with these remarks to the fullest. But nothing we have said justifies exemption from service in the armed forces for Negro registrants.

It is undeniable, as appellant contends, that conscription deprives an individual of his liberty and may even take his life. But we cannot properly compare the military draft to a criminal prosecution. There is no stigma attached to wearing the military uniform of the United States. To the contrary, it is a badge of the highest honor. Service under the flag of our country cannot properly be likened to imprisonment in a penitentiary. A proud nation with a long tradition of valor and bravery on the battlefield, with vivid memories in modern times of distant places where Americans have fought and died to preserve freedom, some with unusual names, such as Chateau-Thierry, Normandy, Iwo Jima and Khe Sanh, would never permit a comparison so odious. It is the same willingness of Americans to sacrifice their lives in the military service of the country which has made it possible to establish the United States as a free nation, and which has successfully warded off the encroachments of its enemies. "The knowledge that military service must sometimes be borne by—and imposed on—free men so their freedom may be preserved is woven deeply into the fabric of the American experience." President Johnson, Message on Selective Service to the Congress, March 6, 1967.

The Government argues—and we agree—that a draft board system which does not have a sufficiently representative number of Negro members is comparable to a mal-

apportioned legislature. The acts of such a legislature are not invalid and the laws which it passes are not null and void. The acts of a malapportioned legislature or local or county commission or board are acts of a de facto political authority and valid despite their failure to be apportioned in accordance with *Baker* v. *Carr*, 369 U. S. 186, 82 S. Ct. 691 (1962) and *Avery* v. *Midland County, Texas*, 390 U. S. 474, 88 S. Ct. 1114 (1968).

Nor is appellant's argument meritorious that composition of draft boards is similar to that of grand and petit juries. The right to trial by jury has specific constitutional authority. However, nothing in the Constitution or the Universal Military Training and Service Act requires racially proportionate selective service boards. It is not difficult to understand the reasons which support the prior rulings of the Supreme Court and this Court in the jury selection cases where convictions have been set aside for failure to have representative numbers of Negroes on jury venires. See *Whitus* v. *State of Georgia*, 385 U. S. 545, 87 S. Ct. 643 (1967); *Rabinowitz* v. *United States*, 5 Cir., 1966, 366 F. 2d 34; *Mobley* v. *United States*, 5 Cir., 1967, 379 F. 2d 768. The boards are administrative agencies with specific duties, many of them purely ministerial, which are provided for by the Act and Selective Service Regulations. A jury's verdict arrived at by secret deliberation has a finality which is not at all applicable to selective service classification and induction. As we shall see, draft board appeals are considered de novo and are not judicial proceedings.

The war powers of Congress to raise and support armies are constitutionally authorized and are of paramount public importance because they directly involve the protection and preservation of the nation itself. In this vital and

sensitive area it behooves the judiciary to recognize the imperative necessity for the maintenance of the national integrity as upheld by the military forces of the United States. The Universal Military Training and Service Act provides that "every male citizen of the United States" between certain ages shall register and be subject to induction in the armed forces of the United States. Exemptions from service, such as for conscientious objectors or ministers of religion, are matters of legislative grace. *United States* v. *Mohammed*, 7 Cir., 1961, 288 F. 2d 236, 242; *Parrott* v. *United States*, 9 Cir., 1966, 370 F. 2d 388, 391. It has been long established that there is no constitutional right to exemption from military service by virtue of conscientious objection or religious calling. *Wood* v. *United States*, 5 Cir., 1967, 373 F. 2d 894, 900, reversed on other grounds, 389 U. S. 20, 88 S. Ct. 3 (1967); *George* v. *United States*, 9 Cir., 1952, 196 F. 2d 445, 449. These exemptions do not spring from the Constitution but from the Congress. *George* v. *United States, supra.* The Supreme Court said in *Jacobson* v. *Massachusetts*, 197 U. S. 11, 29, 25 S. Ct. 358, 362 (1905), that despite the liberty secured by the Fourteenth Amendment a person "may be compelled, by force if need be, against his will and without regard to his personal wishes or even his religious or political convictions, to take his place in the ranks of the army of his country, and risk the chance of being shot down in its defense."

It will be recalled that there were seven different occasions on which appellant was classified 1-A; four by his local board, twice by two different appeal boards in Kentucky and Texas, and once by the Presidential Appeal Board. The appeals in each instance were considered

de novo.[7] "It is universally held that the Appeal Board considers matter of classification *de novo* and its classification is one of first instance, not a mere affirmance or reversal of the Local Board, and that any . . . prejudice on the local level is cured by a fair consideration on the appeal." *DeRemer* v. *United States,* 8 Cir., 1965, 340 F. 2d 712, 719; *United States* v. *Van Hook,* 7 Cir., 1960, 284 F. 2d 489, 491; *Ayers* v. *United States,* 9 Cir., 1956, 240 F. 2d 802, 809, cert. denied, 352 U. S. 1016, 77 S. Ct. 563 (1957); *Davis* v. *United States,* 8 Cir., 1953, 203 F. 2d 853. The action of the board of appeals completely supersedes the action of the local board is classifying appellant although the classification is the same. *Cramer* v. *France,* 9 Cir., 1945, 148 F. 2d 801; *United States* v. *Moore,* 7 Cir., 1954, 217 F. 2d 428, 431, 432. If the local board erred, the error was cured by the de novo action of the appeal board. *United States* v. *Chodorski,* 7 Cir., 1956, 240 F. 2d 590, 593.

The appeal to the Presidential Appeal Board was also de novo.[8] Any error or invalidity in the selective service

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[7] As to the appeal boards, the Regulations provide (32 C.F.R. § 1626.26):

"(a) The appeal board shall classify the registrant, giving consideration to the various classes in the same manner in which the local board gives consideration thereto when it classifies a registrant.

"(b) Such classification of the registrant shall be final, except where an appeal to the President is taken: . . . ."

"The state appeal boards make a de novo classification." Comment, *The Selective Service,* 76 Yale L. J. 160, 171 (1966).

[8] The powers of the President upon an appeal (and necessarily of the Presidential Appeal Board which acts for him) are as follows (50 U.S.C. App. § 460(3)):

". . . power to determine all claims or questions with respect to inclusion for, or exemption or deferment from training and

procedures up to and including the Presidential Appeal Board was cured by de novo consideration by that board which acted in the place and stead of the President himself. One third of the membership of the Presidential Appeal Board (one of three) was a Negro, which is obviously a greater proportion than Negroes bear to the total population. The decision of the board was unanimous that appellant should be classified I-A, which action thereby cleared the way for his induction into the armed forces. Nowhere in the record in this case or in appellant's brief do we find any specific charge or evidence of discrimination against appellant because he is a Negro. There are conclusory allegations that the absence of Negroes from local and appeal boards (other than the Presidential Appeal Board) in and of itself establishes discrimination. But we have been unable to find any evidence which shows in the slightest particular that the treatment accorded Clay (Ali) by any board or member thereof was different from that given to any other registrant. Afforded every procedure known to the Act and the regulations, and an appeal to the Presidential Appeal Board to which he was not specifically entitled, appellant's refusal of induction and subsequent trial and conviction by a jury are the result of his own voluntary choice to violate the law of the land.

The contentions of appellant were given final and conclusive consideration by the highest tribunal within the

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service under this title . . . , and the determination of the President shall be final."

"There is no personal appearance before the President's Board, which makes a de novo classification based on the materials in the registrant's file." Comment, *The Selective Service*, 76 Yale L. J. 160, 172 (1966).

System, a board entirely independent of the Director of Selective Service, and the decision was the same—that appellant be classified 1-A, thereby making him available for induction into the armed forces. The action of the Presidential Appeal Board, a board in which there was no racial imbalance, and the subsequent refusal of appellant to be inducted, are, without more, sufficient to affirm the conviction.

II.

Denial of Appellant's Request for Production of Certain Documentary and Other Evidence

Prior to trial appellant sought discovery of certain evidence in connection with his allegation of systematic exclusion of Negroes from the System and racial discrimination against him. He moved the Court under Rule 16, Federal Rules of Criminal Procedure, that the Government produce all records of the National Advisory Commission on Selective Service showing the composition of draft boards in Texas and Kentucky and the details of the number of Negroes and whites classified for service and exempt or deferred from induction, other records of the Mark Clark Commission on Selective Service to the House Armed Forces Committeee, all of the files of Local Board No. 47, Louisville, Kentucky, relating to registrants who claimed and were granted exemptions, minutes of the meetings of the Presidential Appeal Board and Texas Appeal Board, the entire draft board file of appellant, and the White House transcript of a press conference by the President on March 9, 1967. He also moved to take the oral depositions of Lieutenant General Lewis B. Hershey, the National Director of Selective Service, Washington;

United States Representative L. Mendell Rivers, Chairman, House Armed Services Committee, Washington; the members of the National Selective Service Appeal Board and the members of the Texas Appeal Board. General Hershey was requested to bring with him his notes about a public statement on January 31, 1967, in which he predicted appellant would not be deferred. Representative Rivers was requested to bring the notes of his public statement on August 25, 1966, relative to a statement that if Cassius Clay was deferred by the Louisville Board, "You watch what happens in Washington." The members of the National Selective Service Appeal Board were to bring all records and to be examined about the minutes of meetings and communications between them relating to appellant's hearing. The same information was to be obtained from the members of the Texas Appeal Board. Appellant also moved to take the depositions by written interrogatories of the Governors of Texas and Kentucky, the Selective Service Directors of those states, General Hershey, members of the National Selective Service Appeal Board, members of Local Board No. 47, members of the Texas Appeal Board and Representative Rivers. Another application sought issuance of subpoenas duces tecum to Lyndon B. Johnson, President of the United States;[9] Ramsey Clark, Attorney General; General Hershey; the Chairman of Local Board No. 47, Louisville, Kentucky; the Chairman of Texas Appeal Board; the Director of the National Selective Service Appeal Board, Representative Rivers and the Executive Director of the National Advisory Commission on Selective Service, whereby these witnesses were to produce

[9] The request for a subpoena to the President was subsequently withdrawn by appellant's counsel.

certain books, papers and documents in their possession called for by the subpoenas.

A mass of material was, therefore, sought by these discovery techniques. The Trial Judge held a hearing, received briefs and permitted oral argument as to whether the requested discovery should be granted. Appellant's basic contention was that the information sought was necessary to prove systematic exclusion of Negroes in the Selective Service System and that there was lack of procedural due process in the handling of his case. The Government objected to the requested discovery and moved to quash the subpoenas duces tecum, contending that what appellant sought was to put the Selective Service System itself on trial by a congressional-type general investigation. The Government argued against permitting such an investigation of the System, and also that the material sought was irrelevant to any issue which might arise in the criminal trial.

The Government further contended that defense counsel was attempting to explore into the minds and mental processes of the administrative officers named in the subpoenas, was engaging in a "fishing expedition," and that much of the matter sought, though irrelevant, could be obtained from other sources. The District Court refused to order production of the discovery, documentary and other evidence sought by appellant. Nevertheless, much of it found its way into the record at the trial.[10] The measure

[10] In the present record are the following: Registrant's entire Selective Service file, the Report of the National Advisory Commission on Selective Service showing the percentages of Negroes on local boards throughout the states of the nation, Minutes of the Presidential Appeal Board relating to appellant's case, and the President's Message to the Congress on Selective Service dated March 6, 1967.

of discovery permitted by the Rules of Criminal Procedure is not intended to be as broad as in a civil case. Fishing expeditions are the order of the day in a civil action but not in a criminal case for in the latter only limited discovery is permitted. *United States* v. *Sermon*, D. C., W. D. Mo., 1963, 218 F. Supp. 871, 872, 873. A judge should, therefore, be sensitive to the rules of discovery, which are far more restrictive governing criminal discovery. *Campbell* v. *Eastland*, 5 Cir., 1962, 307 F. 2d 478, 487. Application for relief under Rule 16, Federal Rules of Criminal Procedure, is a matter within the sound discretion of the Court and the controlling test is whether there has been an abuse of discretion. *Gevinson* v. *United States*, 5 Cir., 1966, 358 F. 2d 761, 766; *Beatty* v. *United States*, 5 Cir., 1967, 377 F. 2d 181, 185, reversed on other grounds, 389 U. S. 45, 88 S. Ct. 234 (1967). We believe the District Judge's ruling was correct and that it was made in the exercise of reasonable discretion in the management of the proceeding. What the defense actually sought was to place the Selective Service System itself on trial by a broad, general, though vague and indefinite, investigation into its activities and procedures. Most of the evidence requested was immaterial to any defense which could be raised by appellant at his trial. The statistical information about the representation of Negroes on draft boards generally as well as in Kentucky and Texas was available from other sources and is in the record. It would have been grossly improper to place the members of the Presidential Appeal Board and the Texas Appeal Board on the witness stand to determine from them what their reasons were for the selective service classification which they gave to appellant in this case. There was, therefore, no error in the ruling of the Trial Judge.

III.

Denial of the Ministerial Exemption

Scope of Review. In considering the propriety of appellant's classification, and the denial of a ministerial exemption and conscientious objector status, we must keep in mind that the Act provides that decisions of the local boards are final. (50 U.S.C. App. § 460(b)(3). In the leading and much cited case of *Estep* v. *United States*, 327 U. S. 114, 122, 66 S. Ct. 423, 427 (1946), the Supreme Court said:

> "The provision making the decisions of the local boards 'final' means to us that Congress chose not to give administrative action under this Act the customary scope of judicial review which obtains under other statutes. It means the courts are not to weigh the evidence to determine whether the classification made by the local boards was justified. The decisions of the local boards made in conformity with the regulations are final even though they may be erroneous. The question of jurisdiction of the local board is reached only if there is no basis in fact for the classification which it gave the registrant."

Therefore, the scope of review of local board decisions in draft cases is very limited and the range of review is the narrowest known to the law. *Matyastik* v. *United States*, 5 Cir., 1968, 392 F. 2d 657 [No. 24269, February 12, 1968]; *Blalock* v. *United States*, 4 Cir., 1957, 247 F. 2d 615.[11] In *Blalock* the Fourth Circuit said:

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[11] "The registrant who wants to take his case to court will find little relief from that quarter. Indeed, he will find it difficult to obtain review at all. The courts have allowed review only by

"The 'clearly erroneous' rule applied in equity appeals has no place here, nor even the 'substantial evidence' rule of the Administrative Procedure Act, 5 U.S.C.A. § 1009. Congress gave the courts no general authority of revision over draft board proceedings, and we have authority to reverse only if there is a denial of basic procedural fairness or if the conclusion of the board is without any basis in fact. Witmer v. United States, 348 U. S. 375, 75 S. Ct. 392, 99 L. Ed. 428; Goff v. U. S., 4 Cir., 135 F. 2d 610."

The courts do not sit as super draft boards, substituting their judgments on the weight of the evidence, nor should they look for substantial evidence to support such determinations. *Tamarkin* v. *United States*, 5 Cir., 1958, 260 F. 2d 436, 437; *Wood* v. *United States*, 5 Cir., 1967, 373 F. 2d 894, reversed on other grounds, 389 U. S. 20, 88 S. Ct. 3 (1967); *Dickinson* v. *United States*, 346 U. S. 389, 396, 74 S. Ct. 152, 157 (1953); *Witmer* v. *United States*, 348 U. S. 375, 75 S. Ct. 392 (1955).

In recent cases we have consistently supported the "basis in fact" test in connection with the classification of draft registrants by local boards. See *Wood* v. *United States*, 5 Cir., 1967, 373 F. 2d 894, reversed on other grounds, 389 U. S. 20, 88 S. Ct. 3 (1967); *Greer* v. *United States*, 5 Cir., 1967, 378 F. 2d 931; *Foster* v. *United States*, 5 Cir., 1967, 384 F. 2d 372; *Jones* v. *United States*, 5 Cir., 1968, 387 F. 2d 909 [No. 24565, January 17, 1968]; *Matyastik* v.

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habeas corpus after induction and defense to a criminal prosecution for failure to report for induction." (citing *Witmer* v. *United States*, 348 U. S. 375, 377, 75 S. Ct. 392 (1955) in support of the text) Comment, *The Selective Service*, 76 Yale L. J. 160, 172 (1966).

United States, 5 Cir., 1968, 392 F. 2d 657 [No. 24269, February 12, 1968].[12]

The Ministerial Exemption. We turn now to the question of the denial of a ministerial exemption to appellant who claims to be a minister of the Lost Found Nation of Islam (Black Muslims). The Act provides that regular or duly ordained ministers of religion shall be exempt from service. (50 U.S.C. App. § 456(g).)

> "The term 'regular minister of religion' means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister." (50 U.S.C. App. § 466(g), (2).)

See also 32 C.F.R. § 1622.43 (Selective Service Regulations) which places a regular minister of religion in Class IV-D. Most important, the registrant bears the burden of clearly establishing a right to the ministerial exemption and the board has no affirmative duty to ascertain whether or not the registrant qualifies for the exemption. *Wood* v. *United States*, 5 Cir., 1967, 373 F. 2d 894, reversed on other grounds, 389 U. S. 20, 88 S. Ct. 3 (1967).

In *Dickinson* v. *United States*, 346 U. S. 389, 394, 395, 74 S. Ct. 152, 156, 157 (1953), a ministerial exemption case, the Supreme Court said:

> "The ministerial exemption, as was pointed out in the Senate Report accompanying the 1948 Act, 'is a narrow

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[12] For a further discussion of the narrow scope of review in draft cases, see Comment, *Fairness and Due Process Under the Selective Service System*, 114 Penna. L. Rev. 1015, 1019 (1966).

one, intended for the leaders of the various religious faiths and not for the members generally.' S. Rep. No. 1268, 80th Cong., 2d Sess. 13. Certainly all members of a religious organization or sect are not entitled to the exemption by reason of their membership, even though in their belief each is a minister. Cf. Cox v. United States, 1947, 332 U. S. 442, 68 S. Ct. 115, 92 L. Ed. 59. On the other hand, a legitimate minister cannot be, for the purposes of the Act, unfrocked simply because all the members of his sect base an exemption claim on the dogma of its faith. That would leave a congregation without a cleric. Each registrant must satisfy the Act's rigid criteria for the exemption. Preaching and teaching the principles of one's sect, if performed part-time or half-time, occasionally or irregularly, are insufficient to bring a registrant under § 6 (g). These activities must be regularly performed. They must, as the statute reads, comprise the registrant's 'vocation.' And since the ministerial exemption is a matter of legislative grace, the selective service registrant bears the burden of clearly establishing a right to the exemption."

The test, therefore, is whether a registrant, as a vocation, regularly, not occasionally, teaches and preaches the principles of his religion. There must be regularity of religious activities, a ministerial vocation rather than an avocation, and a recognized standing as a minister to a congregation or leader of a group of lesser members of his faith. *Wiggins* v. *United States*, 5 Cir., 1958, 261 F. 2d 113; *Fitts* v. *United States*, 5 Cir., 1964, 334 F. 2d 416; *Wood* v. *United States*, 5 Cir., 1967, 373 F. 2d 894, reversed on other grounds, 389 U. S. 20, 88 S. Ct. 3 (1967); *Greer* v.

United States, 5 Cir., 1967, 378 F. 2d 931; *Foster* v. *United States*, 5 Cir., 1967, 384 F. 2d 372; *Jones* v. *United States*, 5 Cir., 1968, 387 F. 2d 909 [24565, January 17, 1968]; *Matyastik* v. *United States*, 5 Cir., 1968, 392 F. 2d 657 [No. 24269, February 12, 1968].

Appellant was certified as a minister by the National Secretary of the Lost Found Nation of Islam and by its leader, Elijah Muhammad. He contends that he spends 90% of his time on his ministerial duties. He submitted 43 affidavits and documents said to contain the signatures of 3,612 people testifying to his ministerial activities. Finally he states that there was no evidence in his file upon which a "basis in fact" could be found to support his 1-A classification by the board. We are unable to agree with his statements or contentions. The file indicates that appellant joined his religious sect in January 1964. He has apparently earned his living as a professional boxer for a number of years and became professional heavyweight boxing champion of the world on February 25, 1964. Some years earlier he had won the world light heavyweight boxing championship at the Olympics at Rome. He contends that he became a minister of the Muslims in early 1964. In the first information which he supplied to his local board on selective service forms, his occupation was shown to be that of "professional boxer" and "professional prizefighter." The Report of Medical History dated January 24, 1964 showed his usual occupation to be "boxing." During all this time he made numerous trips to foreign countries to engage in professional bouts which he stated required daily physical training and exercise in preparation for these prizefights. His Current Information Questionnaire dated February 2, 1966 listed his occupation as a "professional boxer" and his work as "professional fighting." Then,

on February 17, 1966, the eventful and important date in this case, his 1-Y classification was changed by the local board to 1-A. Clay (Ali) had never stated to his board or claimed to be a minister or a conscientious objector prior to that time. He wrote Local Board No. 47 on February 14, 1966, just three days prior to his reclassification that "My occupation is professional boxer, and I am at present the Heavyweight Champion of the World." Even when he filled out the Special Form for Conscientious Objector dated February 28, 1966, though claiming to be a member of the Nation of Islam, he did not claim to be a minister. His letter of March 17, 1966 to Local Board No. 47 protested that his reclassification imposed "grave hardship upon me as heavyweight champion of the world at now age 24." When he appeared in person before Local Board No. 47 on March 19, 1966, boxing was listed as his livelihood. The evidence which the local board had before it was much more than necessary to constitute a "basis in fact" for his 1-A classification and denial of the ministerial exemption. His vocation is clearly that of a professional boxer.

IV.

Denial of Conscientious Objector Status

Appellant's claim that he is a conscientious objector began on February 18, 1966, one day after his reclassification to 1-A, at which time he was furnished the Special Form for Conscientious Objector. He was granted a personal appearance before Local Board No. 47 on March 19, 1966, pursuant to his request. The board's record of that appearance reflects that he claimed hardship on account of taking care of his parents and paying alimony to his former wife. The board's record states, "His religion teaches them not

to take part in any way with infidels or any nonreligious group. They fight only in self-defense, not war. Boxing is considered his livelihood." Also, "Clay objects to being in service because he has no quarrel with the Viet Cong. Clay stated that he could not, without being a hypocrit, [sic] take part in anything such as war or anything that is against the Moslim religion." He wrote a lengthy letter to his local board dated April 16, 1966, in which he repeated his hardship request as the sole support of his mother and on account of having to pay alimony to his first wife. He protested that two years of military service would cause him serious financial loss in being unable to pursue his livelihood as a professional boxer.[13] The local board nevertheless reaffirmed the 1-A classification and the registrant appealed to the appeal board. On May 6, 1966, the complete file was reviewed by the Kentucky Board of Appeals which tentatively determined that the registrant should not be classified in Class 1-O (conscientious objector) or in a lower class. See 32 C.F.R. § 1626.25(a), (b).

The Department of Justice then requested a Federal Bureau of Investigation investigation and a special hear-

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[13] The pertinent part of the letter to the board reads as follows:

"Two years is a very long time in the life of a heavyweight champ—from age 22 when I was classified from 1-A to 1-Y, and my present age 24. From age 24—to age 26 I may never be able to overcome this time of loss of boxing sharpness and come back from the service and earn the kind of money required to pay off these financial obligations, even though they may be abated during the time of military service. I would therefore be in hock for the rest of my life, whereas if I can get in a few more fights, which are lined up through the fall of this year, I should be able to settle these permanent financial obligations from the money I should get within this year, while I am at my peak of shape and am the Heavyweight Champion of the World. A 6-month defense is necessary to retain the title."

ing on the character and good faith of the conscientious objections of the registrant. (32 C.F.R. § 1626.25(d).)[14] The special hearing was held on August 23, 1966, at Louisville, Kentucky, before former Circuit Judge Lawrence Grauman as hearing officer. The hearing officer reported to the Department of Justice that the registrant stated his views in a convincing manner, answered all questions forthrightly, that he was impressed by the statements, believed the registrant was of good character, morals and integrity and sincere in his objection on religious grounds to participation in war in any form. He recommended that his conscientious objector claim be sustained. However, the Department of Justice in a detailed and comprehensive letter opposed his claim[15] and recommended to the Kentucky Board of Appeals that it not be sustained. The Department of Justice concluded that registrant's objections to participation in war insofar as they are based upon the teachings of the Nation of Islam "rest on grounds which are primarily political and racial. These constitute objections to only certain types of war in certain circumstances, rather than a general scruple against participation in war in any form."[16] The Department of Justice pointed out

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[14] The regulations follow generally the provisions of the Act on the procedure for considering conscientious objections. See 50 U.S.C. App. § 456(j).

[15] The Department's written objections are to be found in the file in a 17-page letter dated November 25, 1966 to the Chairman of the Appeal Board, Western District of Kentucky.

[16] For a penetrating analysis of the beliefs of the Black Muslims, see *Sostre* v. *McGinnes*, 2 Cir., 1964, 334 F. 2d 906, cert. denied, 379 U. S. 892, 85 S. Ct. 168 (1964). The Court said in that case (at 909):

> "Basic to the problem of prison discipline is the fact that the teachings of Elijah Muhammad include condemnation of the entire white race as wholly 'evil,' composed of devils, mur-

that only a general scruple against participation in war in any form can support a claim for conscientious objector

derers, thieves, robbers, scientists at tricks, world snoopers, meddlers and liars.[4] Presenting almost equal difficulty is the Muslims' demand for total segregation between whites and blacks. These Muslims also adopt the position that the Christian religion is loathsome and despicable.[5]

"[4] Elijah Muhammad has said:

"'The white race or Caucasian European race is known to God and his prophets as Satan, the devil, the enemy of God and his people (the original nation) power was given to them to rule with evil and falsehood the darker nations for six thousand years. They have done and are now forty-six years overtime and they know this. It will take a few years to complete the separation. Nevertheless the work is going on now at a very good rate of speed.'

"'The truth of the white race will make all black mankind hate them. The truth of the white race and kind will make all black mankind hate them regardless of their color; black, brown, yellow or red. The truth of the white race is a part of that secret which was withheld by Allah to allow them, the devils, to live their time, six thousand years.'

"'If you understood it right you will agree with me that the whole Caucasian Race is a race of devils.'

"(The quotations are from the Supreme Wisdom containing 'the teachings' of the Honorable Elijah Muhammad. This work work was an exhibit in the present case.)

"Malcolm X, at the time a 'minister' of the Muslims, said of an airplane accident in which more than 120 white people were killed:

"'Well, somebody came and told me that he really had answered our prayers over in France. He dropped an airplane out of the sky with over one hundred twenty white people on it, because the Muslims believe in an eye for an eye and a tooth for a tooth, but thanks to God or Jehovah or Allah we will continue to pray and we hope that every day another plane falls out of the sky.'

"[5] 'Bratcher said in the presence of white officers and white inmates, to another colored inmate, "This goddam Jesus Christ has got to go. He has served the purpose of the white man long enough."' (Testimony of A. J. Meyer.)"

status, citing *United States* v. *Kauten*, 2 Cir., 1943, 133 F. 2d 703.[17] The Department of Justice said that the registrant had not consistently manifested his conscientious objector claim and had not shown overt manifestations sufficient to establish his subjective belief where his claim was not asserted until military service became imminent, not having been made at all prior to being reclassified 1-A in February 1966, and cited in support thereof *Campbell* v. *United States*, 4 Cir., 1955, 221 F. 2d 454, and *United States* v. *Corliss*, 2 Cir., 1960, 280 F. 2d 808, cert. denied, 364 U. S. 884, 81 S. Ct. 167 (1960). Numerous statements by the registrant made from time to time were quoted by the Department of Justice in justification of its recommendation against the registrant's conscientious objector claim.[18]

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[17] The Department of Justice's letter said in part: "It seems clear that the teachings of the Nation of Islam preclude fighting for the United States not because of objections to participation in war in any form but rather because of political and racial objections to policies of the United States as interpreted by Elijah Muhammad." (Letter p. 10.)

[18] The special hearing officer quoted the following passage from the registrant's letter to the local board dated February 14, 1966:

"'3. That I am a devoit Muslim and a follower of Islamic religious faith under the discipline of the prophet Elijah Muhammad. To bear arms or kill is against my religion and I conscientiously object to any combat military service that involves the participation in any war in which the lives of human beings is taken. This I do not believe to be rightous. This has been my faith upward of five years.' [sic]"

The Department of Justice's letter recommendation said:

"It should be noted that while the resume statement of the attorney for the sponsoring group did, as noted by the Hearing Officer, express the opinion that registrant sincerely believes that he is conscientiously opposed to military service, the resume also reflects that the attorney believed that registrant would be sincere in his claim as a conscientious objector 'to the extent that registrant can be sincere in a belief'.

The registrant was furnished with a copy of the adverse recommendation of the Department of Justice. The Ken-

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> The resume further reflects that the attorney 'could not be sure how deep any human conviction goes with the registrant' and that he is "not certain as to what motivates the registrant in this respect.' (Resume, page 5) The attorney added that in view of his past experiences with the registrant changing his mind, he would not be surprised 'if a year from now the registrant becomes disenchanted with the Muslims and voluntarily joins the United States Marines.' The member of the sponsoring group, it should also be noted, stated that 'I'll go to my grave believing registrant basically is a good boy and was brainwashed first by his father and then by the Muslims.' (Resume, page 7)."

At the special hearing, in response to a question of the hearing officer, the registrant stated, "If the Honorable Elijah Muhammad looked me in my face and he who I believe is directly from Allah, Almighty God Allah, and if he looked at me and advised me, which I'm sure he wouldn't, to fight in any kind of war, if he advised me to I would." Then the registrant testified:

> "Sir, I said earlier and I'd like to again, to make that plain, that it would be no trouble for me to accept conscientious objector on the basis that I'll go into the Armed Services boxing exhibitions in Viet Nam, or traveling the country at the expense of the Government or living in the easy life and not having to get out in the mud and fight and shoot and if this — — if I could do this, or if it was something I wanted to do, or was in my heart to do if it wasn't against my conscience to do it, I would easily do it. I wouldn't raise all this court stuff and I wouldn't go through all of this and lose and give up the millions that I gave up and my image with the American public that I would say is completely dead and ruined because of us in here now, and so I wouldn't turn down so many millions and jeopardize my life walking the streets of the South and all of America with no bodyguard if I wasn't sincere in every bit of what the Holy Qur'an and the teachings of the Honorable Elijah Muhammad tell us and it is that we are not to participate in wars on the side of nobody who—on the side of non-believers, and this is a Christian country and this is not a Muslim country, and the Government and the history and the facts shows that every move toward the Honorable Elijah Muhammad is made to

tucky Appeal Board thereafter reaffirmed the 1-A classification.

Whether the registrant's beliefs are "truly held" is the threshold question of sincerity which must be resolved by the board. *United States* v. *Seeger*, 380 U. S. 163, 185, 85 S. Ct. 850, 863 (1965).[19] The "basis in fact" test applied to

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distort and is made to ridicule him and is made to condemn him and the Government has admitted that the police of Los Angeles were wrong about attacking and killing our brothers and sisters and they were wrong in Newark, New Jersey, and they were wrong in Louisiana, and the outright, everyday oppressors and enemies are the people as a whole, the whites of this nation. So, we are not, according to the Holy Qur'an, to even as much as aid in passing a cup of water to the—even a wounded. I mean, this is in the Holy Qur'an, and as I said earlier, this is not me talking to get the draft board—or to dodge nothing. This is there before I was borned and it will be there when I'm dead and we believe in not only that part of it, but all of it."

The registrant affirmed at the hearing that he was correctly quoted by the *Chicago Daily News* on February 18, 1966, the day after his reclassification to 1-A, as follows:

"I am a member of the Muslims and we don't go to no war unless they are declared by Ali himself. I don't have no personal quarrel with those Vietcongs.

* * * *

"Let me tell you, we Muslims are taught to defend ourselves when we are attacked. Those Vietcong are not attacking me. These Vietcong are fighting a very nasty war over there. There is a lot of people getting killed. Why should we Muslims get involved? Besides, I am fighting for the government every day. I am laying my life on the line for the government. Nine out of ten soldiers would not want to be in my place in the ring. It is too dangerous."

[19] The Third Circuit recently rejected the claim of a Roman Catholic for conscientious objector classification who said he would fight only in a "just war" and that denial of such classification would violate his federally protected right to religious freedom and equal protection of the law. *United States* v. *Spiro*, 3 Cir., 1967, 384 F. 2d 159, cert. denied, 390 U. S. 956, 88 S. Ct. 1028 (1968).

the conscientious objector claim of registrant was fully met in this case. There was more than adequate evidence to justify the rejection of his claim.

V.

The Bill of Attainder

The Constitution prohibits the passing of a bill of attained by Congress, Art. I, § 9, Cl. 3, and a bill of attainder is said to be a legislative act which inflicts punishment without a judicial trial. *Cummings* v. *The State of Missouri*, 71 U. S. (4 Wall.) 277 (1867). As interpreted by the Supreme Court, this clause prohibits all legislative acts "no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial. . . ." *United States* v. *Lovett*, 328 U. S. 303, 315, 66 S. Ct. 1073, 1078 (1946). Accordingly, appellant contends that the whole proceeding of his classification and induction into the military service constituted a prohibited bill of attainder. The only issue submitted to the jury at his trial was whether he refused to take the step forward at the induction ceremony. Appellant contends in brief that "Every important factual adjudication was extra judicially made by administrative bodies operating under the Act." Since the draft board's authority flows from congressional enactment, appellant argues that Congress has subjected him to a non-judicially imposed penalty in a non-judicial forum. He maintains that he was classified without a judicial trial.

So far as the trial proceedings before the District Court are concerned, there was no irregularity or failure to provide due process of law. The District Judge informed

the jury that he had examined the defendant's Selective Service File and found, as a matter of law, that there was a basis in fact for the 1-A classification given the registrant. The jury was instructed that it was not to consider the question of whether or not the defendant was entitled to this classification for this determination was not for the jury. This ruling and instruction was in exact conformity with the Supreme Court's teaching in *Cox* v. *United States*, 332 U. S. 442, 452, 453, 68 S. Ct. 115, 120 (1947), where the Court said:

> "Whether there was 'no basis in fact' for the classification is not a question to be determined by the jury on an independent consideration of the evidence. The concept of a jury passing independently on an issue previously determined by an administrative body or reviewing the action of an administrative body is contrary to settled federal administrative practice; the constitutional right to jury trial does not include the right to have a jury pass on the validity of an administrative order."

Proceedings before local and appeal boards are informal and are stripped of the panoply of formal judicial tribunals. *United States* v. *Pitt*, 3 Cir., 1944, 144 F. 2d 169, 172. Such proceedings are non-judicial in nature and are clearly non-criminal, for appellant was neither a suspect nor an accused and he was appearing before the boards which were giving him a hearing only in an administrative proceeding. *United States* v. *Sturgis*, 3 Cir., 1965, 342 F. 2d 328, 332. It is true that appellant sought a judicial determination of his case prior to induction, and the decision was adverse in every tribunal to which he presented this issue. The Sixth Circuit, in declining to grant him an

injunction pending his appeal from the decision of the Kentucky Federal District Court, said:

> "We do not believe that Congress ever intended that draftees should have the right to litigate the validity of their induction before acceptance for National Service. If injunction suits were permitted, interminable delays would undoubtedly result while the cases were being processed in the Courts. Such a procedure would interfere with the orderly proceedings of the draft boards and prevent them from filling their quotas and supplying the armed forces with much needed personnel." *Muhammad Ali* v. *Breathitt*, 6 Cir., April 17, 1967, Docket No. 17834, unpublished.

Similar relief was also denied by the Fifth Circuit by its numerous orders to which we have previously referred.

The most recent amendment to the draft law (now called the Military Selective Service Act of 1967) permits judicial review only "as a defense to a criminal prosecution instituted . . . after the registrant has responded either affirmatively or negatively to an order to report for induction." [20] The amendment was undoubtedly Congress' answer to the holding in *Wolff* v. *Selective Service Local Board No. 16*,

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[20] 50 U.S.C. App. § 460(b)(3), as amended in 1967, reads as follows:

> "No judicial review shall be made of the classification or processing of any registrant by local boards, appeal boards, or the President, except as a defense to a criminal prosecution instituted under section 12 of this title, after the registrant has responded either affirmatively or negatively to an order to report for induction, or for civilian work in the case of a registrant determined to be opposed to participation in war in any form: *Provided*, That such review shall go to the question of the jurisdiction herein reserved to local boards, appeal boards, and the President only when there is no basis in fact for the classification assigned to such registrant."

2 Cir., 1967, 372 F. 2d 817, in which the Second Circuit upheld preinduction judicial review [21] of a selective service classification which allegedly infringed upon the constitutional right to free speech. That case involved the reclassification of deferred students, making them available for military duty because of participation in Viet Nam. Preinduction consideration was afforded petitioners on the narrow constitutional ground that the reclassification would have a continued chilling effect, *Dombrowski* v. *Pfister*, 380 U. S. 479, 85 S. Ct. 1116 (1965), on them by being subjected to the added sanction of induction. It is clear by the 1967 amendment to the Act that Congress intends there be no preinduction judicial proceedings which would interfere with the orderly drafting of needed manpower for the armed forces. *DuVernay* v. *United States*, 5 Cir., 1968, 394 F. 2d 979 [No. 24132, February 7, 1968]. Judicial review prior to induction, even on constitutional grounds, is an open invitation to a large volume of litigation, much of which we could expect would undoubtedly be based on frivolous grounds in an attempt to delay or evade military service. As the Supreme Court said in *Falbo* v. *United States*, 320 U. S. 549, 554, 64 S. Ct. 346, 349 (1944):

> "The circumstances under which the Act was adopted lend no support to a view which would allow litigious

[21] "While there was no serious question that eventually petitioners would be able to secure review, *Wolff* is the first case allowing direct judicial review of a registrant's classification prior to induction. It had been held almost without exception that aggrieved registrants could not challenge the determination of their local boards in the courts except by either submitting to induction and seeking habeas corpus relief, or by refusing induction and securing review by way of a defense to a criminal prosecution." Comment, 81 Harv. L. Rev. 685, 686 (1968).
The Government did not file a petition for certiorari in the *Wolff* case.

interruption of the process of selection which Congress created. To meet the need which it felt for mobilizing national manpower in the shortest practicable period, Congress established a machinery which it deemed efficient for inducting great numbers of men into the armed forces. Careful provisions were made for fair administration of the Act's policies within the framework of the selective service process. But Congress apparently regarded 'a prompt and unhesitating obedience to orders' issued in that process 'indispensable to the complete attainment of the object' of national defense. Martin v. Mott, 12 Wheat. 19, 30, 25 U. S. 19, 30, 6 L. Ed. 537. Surely if Congress had intended to authorize interference with that process by intermediate challenges of orders to report, it would have said so."

The registrant's remedy is in defense to a criminal prosecution if he declines induction, and habeas corpus if he accepts induction but is still aggrieved by the classification process. *Witmer* v. *United States*, 348 U. S. 375, 377, 75 S. Ct. 392, 394 (1955).[22]

In the present matter the registrant fully exhausted all administrative remedies available to him. In that re-

[22] In *Schwartz* v. *Strauss*, 1953, 206 F. 2d 767, the Second Circuit affirmed on the opinion below (114 F. Supp. 438) the District Court's denial of relief to a plaintiff who sought a preinduction declaratory judgment and an injunction "claiming that his selective service classification is erroneous as a matter of law and that he is thereby deprived of certain constitutional rights." The District Court said "that there are many authorities that do not permit judicial review before induction" and that "the Congressional intent was to keep the administrative process of the Selective Service System free from the delays and disruption incident to court interference prior to induction." The Court said that "plaintiff's remedy is by way of habeas corpus after induction or by refusing to be inducted after the administrative process is complete." 114 F. Supp. at 439.

spect the case differs from *DuVernay v. United States*, 5 Cir., 1968, 394 F. 2d 979 [No. 24132, February 7, 1968], where we affirmed the conviction of *DuVernay* because of his failure to exhaust administrative remedies. We also pointed out in footnote 6 of that case (394 F. 2d 983) that as to the attack on the racial composition of the local board, since draft board members are public officers appointed by the President, a challenge to the composition of the board indirectly challenges the qualifications of the present members and their eligibility to perform their duties. We said that the public officers' authority was not subject to collateral attack in the criminal proceeding but must be challenged by direct attack. *DuVernay's* conviction, however, was not affirmed on that issue but on the failure of the draftee to exhaust administrative remedies. While it is true that qualifications of a public officer generally may not be collaterally attacked, the charge of systematic exclusion of Negroes from draft boards in this case, where all administrative remedies have been exhausted, is of constitutional proportions and warrants our consideration and disposition of that issue. We do not view appellant's contention here as requiring the removal of draft board members because of so-called systematic exclusion of racial imbalance, but that appellant seeks to have their acts declared invalid as to him. It is apparent that the systematic exclusion contention must, therefore, be decided. Accordingly, we have given full consideration to that contention, now urged in this criminal proceeding, though we believe it is not applicable insofar as draft board membership is concerned, and, at the least, that the acts of such boards are de facto valid and binding. *United States v. Commonwealth of Pennsylvania*, D. C., W. D. Penna., 1963, 214 F. Supp. 913;

United States v. Lindsley, 7 Cir., 1945, 148 F. 2d 22, cert. denied, 325 U. S. 858, 65 S. Ct. 1195 (1945). There is no question involved here of the board acting beyond its jurisdiction in classifying and attempting to induct appellant who, under the Act and regulations, is clearly a proper subject for military service in the armed forces of the United States. Since under the Act and the settled law the systematic exclusion contention may not properly be raised prior to induction, we have concluded that it is reasonable, all administrative and other remedies having been exhausted by appellant, that we meet the issue squarely and resolve it, which we have done.[23]

There is no merit to the bill of attainder argument as we have seen.

The conviction and sentence are, therefore, AFFIRMED.

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[23] Appellant raised another issue which is without merit. He claimed deprivation of due process because of the inclusion in his Selective Service File of numerous letters and newspaper clippings alleged to be prejudicial, and also because of pre-final classification statements of General Hershey, the National Director, and Congressman Rivers, Chairman of the House Armed Services Committee. We have heretofore described the statements of General Hershey and Congressman Rivers in Chapter II of this opinion. The record shows quite clearly that it is the practice of local boards to place all correspondence relating to a registrant in his file. A number of letters and clippings from members of the general public protesting the delay in inducting appellant were received by the board and filed. The record is devoid of any indication that these letters and clippings played any part whatsoever in the ultimate classification of appellant. That is also true of the statements of the General and Congressman. As to General Hershey's statement, we have already shown that board is independent of the National Director as provided in 32 C.F.R. § 1604.6(a), (b), (c), and it was General Hershey who caused an appeal of registrant's case to the Presidential Appeal Board. Obviously it is the right of Congressman to express opinions on matters of public interest, including registrant's draft case. But nothing in the record of this case shows that Congressman Rivers' statement had any effect on the classification of appellant.

Order Denying Petition for Rehearing and Petition for Rehearing *En Banc*

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 24991

CASSIUS MARSELLUS CLAY, JR.,

Appellant,

versus

UNITED STATES OF AMERICA,

Appellee.

ON PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC

(June 6, 1968)

Before COLEMAN, AINSWORTH and DYER, *Circuit Judges.*

PER CURIAM:

The Petition for Rehearing is Denied and no member of this panel nor Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc, Rule 25(a), subpar. (b), the Petition for Rehearing En Banc is Denied.

Order of United States Supreme Court

SUPREME COURT OF THE UNITED STATES

No. 271, October Term, 1968

Cassius Marsellus Clay, Jr., also known as Muhammad Ali,

Petitioner,

v.

United States.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

This Cause came on to be heard on the transcript of the record from the United States Court of Appeals for the Fifth Circuit.

On Consideration Whereof, it is ordered and adjudged by this Court that the judgment of the said United States Court of Appeals in this cause be, and the same is hereby, vacated; and that this cause be and the same is hereby, remanded to the United States District Court for the Southern District of Texas for further proceedings in conformity with the opinion of this Court.

March 24, 1969

[Clerk's certificates omitted.]

Second Opinion of the Court of Appeals

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 28252

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CASSIUS MARSELLUS CLAY, JR.,

Defendant-Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

(July 6, 1970)

Before WISDOM, AINSWORTH and CLARK, *Circuit Judges.*

AINSWORTH, *Circuit Judge:* This Selective Service case involves the conviction by a jury on June 20, 1967 of Cassius Marsellus Clay, Jr., also known as Muhammad Ali, former professional heavyweight boxing champion of the world, for wilfully refusing to be inducted into the armed Forces of the United States, in violation of 50 U.S.C. App. § 462, and is before us for the second time.[1] We affirmed the conviction on May 6, 1968, and rehearing en banc was

[1] Defendant's request that this case, now on its second time before the Court, be heard en banc was denied on February 10, 1970.

denied June 6, 1968. See *Clay* v. *United States*, 5 Cir., 1968, 397 F.2d 901.

The defendant then petitioned the Supreme Court for certiorari, and while the petition was pending before that Court, the Government revealed that there had been five telephone conversations participated in by defendant which were overheard by the Federal Bureau of Investigation by electronic wiretapping. Accordingly, the Supreme Court granted certiorari, *sub nom. Giordano* v. *United States*, 394 U. S. 310, 89 S. Ct. 1163 (1969), and remanded this case to the District Court for further proceedings in conformity with *Alderman* v. *United States*, 394 U. S. 165, 89 S. Ct. 961 (1969), to determine whether the conviction was affected by the wiretaps.

Pursuant to the Supreme Court's grant of certiorari, a lengthy hearing was then held before District Judge Joe Ingraham on June 2, 4, 5, and 6, 1969, in Houston, Texas, at which time the Court considered the FBI logs of the five wiretapped telephone conversations delivered to it in advance of the hearing by the Government. The Court then ordered that the logs of wiretapped conversations 1, 2, 3, and 4 be received in evidence and their contents fully disclosed to the defendant. As to these four logs of wiretapped telephone conversations, the Court held that the defendant had standing to assert the illegality of the surveillance and that the illegality was not challenged by the Government. The fifth log of a wiretapped conversation in which defendant participated was considered in camera by the District Judge, with related exhibits, and held to be a lawful surveillance by the FBI pursuant to the Attorney General's authorization of a wiretap for the purpose of gathering foreign intelligence.

The District Court concluded that the first four logs did not bear on the issues involved in defendant's conviction;

that the defendant failed to show any relevancy of these logs to the conviction; and that the conviction must stand. The fifth wiretapped conversation which related to the gathering of foreign intelligence was held to be lawful surveillance, reasonable and necessary to the protection of the national interest.

As we have stated, logs 1, 2, 3, and 4 were made available to defendant to afford him an opportunity to show the relevance of any of these wiretapped conversations to his Selective Service law conviction. (The logs are all of the evidence which the FBI possesses of the wiretapped conversations, the tapes on which the conversations were originally recorded having been erased when the logs were typed.) The five telephone conversations were not tapped in an electronic surveillance of defendant Clay but were made in connection with surveillance of others, the defendant not having been the subject of the surveillance.

Log 1 pertained to a telephone conversation on April 22, 1965, when the telephone of Elijah Muhammad was tapped in Phoenix, Arizona. A person named Herbert called the defendant, Clay, asking him about his physical condition, prospective fights, and personal details relative to the family.[2]

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[2] Log 1 is reproduced in full as follows:

"Herbert called, via operator, to 305-635-8893 in Miami and asked to speak to Cassius Clay. Herbert told Clay he was here in Arizona and asked how Clay was. Clay said he was fine and was down to 213 pounds. Herbert told him not to overdo it. Herbert asked him if he was going to Boston soon and he said yes, about a week and a half. Herbert said he would be down there to see him fight with his brother. Clay told him to call two days before. Clay mentioned that one boy backed out. He asked Herbert how long he was going to be out here and Herbert said he might leave tomorrow. Herbert asked how everything else was and Clay said fine.

Log 2 referred to another wiretap of a telephone conversation of the telephone of Elijah Muhammad on March 24, 1964. Elijah called defendant Clay, telling him that he wanted to see him about making a minister out of him when "he quit thinking of fighting all the time" and that Clay would make a better minister than a fighter.[3]

Log 3 was another log of a wiretap of the Phoenix, Arizona, telephone of Elijah Muhammad of a telephone conversation on October 22, 1964, when a man believed to be John Ali talked to a person believed to be the defendant, Clay, giving him a message from Elijah about holding up "those TV people," who were apparently about to interview Clay.[4]

Herbert asked how his brothers were and Clay mentioned that James got put out of the temple for being out all night with women. Herbert said Clay knew what to do with a case like that, to get him a ticket and send him back where he came from. Herbert asked about . . . (probably his wife) and Clay said she had gone to Jackson with a lady friend. Herbert said he would probably call him tomorrow, to take it easy and if there was anything he could do to let him know. Clay mentioned something about having Herbert check his car when he, Herbert, got to Chicago. /Recorded/."

[3] Log 2 is reproduced in full as follows:

"Elijah took call from C. Clay. Elijah asked the time there and then said it was only 1 hr. faster than here. Elijah said he wanted to see Clay as he was going to make a minister out of him when he quite (sic) thinking of fighting all the time. Elijah said he would make a better minister than a fighter anyhow. Elijah then said he would contact him when he had time to talk to him. Elijah also told him to keep quiet."

[4] Log 3 is reproduced in full as follows:

"Man believed to be John Ali is heard dialing out on Albert's phone for a long distance call via direct dial. He then talks to person believed to be Muhammad Ali (Clay) and says he has just talked with the Messenger and the Messenger would like for him to hold up those TV people a while since they

Log 4 was taken on September 4, 1964, in Atlanta, in connection with surveillance of the telephone of Dr. Martin Luther King, Jr. MLK (ostensibly Dr. King) exchanged greetings with defendant Clay, wished him well on his recent marriage, and in turn was invited to attend defendant's next championship fight. Clay also told MLK to take care of himself, that he is known world wide, and admonished him that he "should watch out for them whities," etc.[5]

The Trial Judge held that "the logs are so totally innocuous that they could not have had any bearing on the defendant's conviction under any circumstances." The District Judge's reasons in this regard, ably expressed, with which we agree, are reproduced in pertinent part in the margin.[6]

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are going to be here Saturday and he will see what they want so that he (Elijah) will know what (Clay) is going to be asked to say. John mentions that he will probably be coming there when he leaves Phoenix and should be there for Saturday and Sunday. He then gives the Muslim closing."

[5] Log 4 is reproduced in full as follows:

"Chauncey to MLK, said he is in Miami with Cassius, MLK spoke to Cassius, they exchanged greetings, MLK wished him well on his recent marriage, C invited MLK to be his guest at his next championship fight, MLK said he would like to attend. C said that he is keeping up with MLK that MLK is his brother, and with him 100% but can't take any chances, and that MLK should take care of himself, that MLK is known world wide and should watch out for them whities, said that people in Nigeria, Egypt and Ghani asked about MLK."

[6] The Trial Judge said:

"Turning to the significance of the logs, the only manner in which the foregoing conversations were argued relevant to the defendant's conviction centered around the rejection of the defendant's conscientious objector claim. This was a plausible argument, for if the recommendation by the Department of Justice to deny the claim was based upon illegally obtained

evidence, the 'basis in fact' which this court found for his classification would have been defective. Without such a 'basis of fact', the defendant could effectively challenge the jurisdiction of the draft board which classified him and ordered him to report for induction.

"The specific relevancy sought between the defendant's classification and the overheard conversations involves the statement in the Department of Justice's recommendation that 'registrant's objections to participation in war insofar as they are based upon the teachings of the Nation of Islam "rest on grounds which are primarily political and racial. These constitute objections to only certain types of war in certain circumstances, rather than a general scruple against participation in war in any form."' *Clay* v. *United States*, 397 F. 2d 901 (5 CA 1968). The defendant attempted to show first, that because Log 2 reflects Elijah's wish that Clay become a minister, and because Log 4 reflects Clay's reference to 'them whities' the logs would have a bearing on the Department's conclusion that the defendant's beliefs were political and racial, rather than religious. He secondly attempted to demonstrate how this information was transmitted upward through F.B.I. channels, through the Department of Justice and into the recommendation, and back to the draft appeals board.

"As to the second argument, that the information was used by the Department of Justice in making its recommendation, there was positive testimony that the logs were not used at all in the preparation of the report. Only the most strained construction of the cross-examination testimony would support a contrary finding. But the court need not reach this question, for it believes, and so holds, that the logs are so totally innocuous they could not have had any bearing on the defendant's conviction under any circumstances. This is because, first, as regards Log 2, the Department of Justice's duty was to submit a recommendation concerning the defendant's status as a conscientious objector, not a minister. It is obvious that the Department could have, had it believed it was warranted, recommended that the defendant be granted a conscientious objector deferment despite the fact that he was not a minister of his religion. Moreover, even if this issue had been before the Department, it is clear that the evidence that he was not a minister up to at least March 19, 1966, is overwhelming. See discussion in *Clay* v. *United States, supra* at 915-18. Thus examining this log in a light most likely to demonstrate

There was likewise no error committed by the District Court in rejecting the board and sweeping demands for discovery by defendant's counsel of FBI files, documents, wiretapping information and tapes and transcriptions, relating to persons and conversations not participated in by defendant. All of the logs of recorded conversations of defendant were produced for his inspection except the fifth wiretap which pertained to foreign information gathering

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prejudice to the defendant, there is more than enough evidence to dispel possible taint. The conclusion that the defendant should not have been entitled to a ministerial exemption springs clearly from an 'independent origin'. *Nardone* v. *United States*, 308 U.S. 338 (1939).

"Defendant's attempt to link Log 4 to his conviction must similarly fail. To construe a passing reference to 'them whities' as being the Department's basis, or even partial reason, for holding the defendant's beliefs to be political and racial is completely untenable. The conversation was not a theological discussion. The common slang reference was not within a context which could have had any bearing on the defendant's beliefs. A Negro not a member of the Nation of Islam would be as likely to say the same thing. In addition, if it had been in such a context, and it could be construed to be even viciously derogatory, again there was ample evidence from an independent origin before the Department to conclude that the Muslim religion holds the white race in contempt. See *Clay* v. *United States, supra* at 919 n. 16.

"As regards Logs 1 and 3, they are so totally innocuous even defendant's counsel could not point to any specific language which could bear on the defendant's conviction. The thrust of defendant's argument concerning these logs, as well as Logs 2 and 4 was that there must have been other matters discussed by the parties which were relayed to the Department of Justice. The court does not credit this argument. The testimony was clear that the original tapes were erased immediately after the logs were typed, and that the logs received in evidence were the only ones prepared. The individuals who monitored the conversations in Phoenix testified that they communicated no other information to anyone."

and which we will discuss later. The defendant had no right to see records or logs of conversations to which he was not a party, nor to rummage in Government files. *Alderman* v. *United States*, 395 U. S. 165, 185, 89 S. Ct. 961, 973 (1969); *Taglianetti* v. *United States*, 394 U. S. 316, 317, 89 S. Ct. 1099, 1100 (1969). It is clear from uncontradicted testimony that none of the information obtained in the five wiretapped telephone conversations was used in the FBI investigation of defendant's conscientious objector claim, or in the preparation of the adverse Department of Justice recommendation made in connection with defendant's original request for conscientious objector classification.[7] In our view the Trial Court exercised "informed discretion, good sense, and fairness," *Alderman, supra*, 394 U. S. at 185, 89 S. Ct. at 973, in denying defendant's discovery demands and we perceive no sound reason for interfering with his decision.[8]

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[7] Defendant was mailed a copy of the adverse recommendation on November 29, 1966. *See* 397 F. 2d at 906.

[8] The District Judge, in his memorandum opinion, said in this regard:

> In Alderman v. United States, supra, the Court said that '(n)one of this means that any petitioner will have an unlimited license to rummage in the files of the Department of Justice. Armed with the specific records of overheard conversations and with the right to cross examine the appropriate officials in regard to the connection between those records and the case made against him, a petitioner may need or be entitled to nothing else. Whether this is the case or not must be left to the informed discretion, good sense, and fairness of the trial judge.' Id. at 185. And in Taglianetti v. United States, 394 U.S. 316 (1969), the Court said that '(n)othing in Alderman v. United States, Ivanov v. United States, or Butenko v. United States, ante, p. 165, requires an adversary proceeding and full disclosure for every issue raised by an electronic surveillance. . . . Here the defendant was entitled to see a transcript of his own conversations and nothing else.

The fifth wiretap was not disclosed to defendant because the District Court found that the surveillance was lawful, having been authorized by the Attorney General, for the purpose of obtaining foreign intelligence information. The Supreme Court has not yet decided whether electronic surveillance for the purpose of gathering foreign intelligence information is constitutionally permissible, *Giordano v. United States, supra*, 394 U. S. at 314, 89 S. Ct. at 1165, 1166 (1969), though Mr. Justice White has expressed the view that such surveillance does not violate the Fourth Amendment. *See Katz v. United States*, 389 U. S. 347, 364, 88 S. Ct. 507, 517 (1967).

Moreover, in *Giordano, supra*, 394 U. S. at 314, 89 S. Ct. at 1165, Mr. Justice Stewart in a concurring opinion stated the following in regard to the mandate of *Alderman, supra*,

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He had no right to rummage in government files." Id. at 317. Despite the foregoing, the defendant's counsel insistently requested what would be, in essence, a full-scale inquiry into F.B.I. practices. The court does not believe that anything was shown which would warrant such an inquiry. Defendant had ample opportunity to demonstrate first, that the logs contained prejudicial material, and second, that the material was communicated to and was used by the Department of Justice in making its recommendation. Had he established the first, perhaps more extensive discovery would have been in order. But the defendant should not be permitted such broad discovery to attempt to prove transmittal of the information if he cannot first show that the information could have been, even in part, relevant to his conviction.

"It might be added that Taglianetti v. United States, supra, intimates that the district court could, in some circumstances, make the determination that wiretap evidence is innocuous in an in-camera inspection. This is, the court believes, such a case. Nevertheless, an adequate opportunity was given the defendant to prove relevance in an adversary proceeding. The proceeding was as extensive as Alderman requires. He failed to show the requisite relevancy, and the conviction must stand."

for further hearing and the procedure to be followed in a criminal case where wiretapping information relative to a defendant had been obtained.

> "We have nowhere indicated that this determination cannot appropriately be made in *ex parte, in camera* proceedings. 'Nothing in Alderman v. United States, Ivanov v. United States, or Butenko v. United States, 394 U. S. 165, 89 S. Ct. 961, 22 L. Ed. 2d 176, requires an adversary proceeding and full disclosure for resolution of every issue raised by an electronic surveillance.' Taglianetti v. United States, 394 U. S. 316, 89 S. Ct. 1099, 22 L. Ed. 2d 302."

An in camera examination of the fifth log and a description of the premises which were the subject of the surveillance, together with the Attorney General's express authorization to the FBI to make the surveillance, was accordingly made by the Trial Judge. It has also been made by the three judges of this panel. From this examination we agree that the log of the fifth wiretapped telephone conversation (1) was authorized by the Attorney General in writing to the FBI; (2) that it was not made pursuant to a surveillance of defendant but rather of others, and the premises were identified; (3) that it was made in connection with obtaining foreign intelligence information; (4) that the Executive Branch of the Government has properly and reasonably requested that the log not be published or disclosed to the defendant or the public because "it would prejudice the national interest to disclose the particular facts concerning this surveillance other than to the court *in camera*" (see affidavit of Attorney General Mitchell); and (5) its contents do not in any manner bear

upon the issues involved in defendant's draft law violation case; and in no way has this wiretap prejudiced defendant, helped build a case against him, or assisted in bringing about his conviction.

Defendant and amicus contend that the Supreme Court's decision in *Alderman, supra,* requires an adversary hearing and mandates that all wiretapped information of defendant's conversations be furnished to him, including the fifth log pertaining to foreign intelligence gathering; that the District Court erred in failing to disclose the fifth log to him and in not holding a hearing thereon to determine if the wiretap tainted defendant's conviction; that full disclosure is required by the Constitution and the Bill of Rights, and that section 605 of the Federal Communications Act of 1934, 47 U.S.C. § 605, bars any use of wiretap in a criminal prosecution.

Under the circumstances here, publication of the fifth log to defendant is unwarranted and would be contrary to the national interest, having been obtained in foreign intelligence surveillance. The Court's in camera examination of the fifth log establishes to our satisfaction that the contents of the wiretap were not germane to any issue in this criminal prosecution and conviction. There has been no use against defendant of the information gained by the Government by the fifth wiretap and the information there obtained would not have been of assistance to the prosecutor in constructing a case against defendant. There is no indication that the information was or could be used in any way against defendant.

Determination of this case requires that we balance the rights of the defendant and the national interest. The Attorney General, who acts here for the President and Commander-in-Chief, has submitted his affidavit that the

fifth wiretap was maintained "for the purpose of gathering foreign intelligence information" and the Attorney General opposed disclosure at the hearing because "it would prejudice the national interest to disclose particular facts concerning this surveillance other than to the court." The fifth log was submitted by the Government for an in camera examination by the Court, which has been made both here and in the District Court. The rights of defendant and the national interest have thus been properly safeguarded. Further judicial inquiry would be improper and should not occur. It would be "intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret." *Chicago & Southern Air Lines* v. *Waterman S.S. Corp.*, 333 U.S. 103, 111, 68 S. Ct. 431, 436 (1948). We, therefore, discern no constitutional prohibition against the fifth wiretap.

Section 605 of Title 47, U.S.C., is a general prohibition against publication or use of communications obtained by wiretapping, but we do not read the section as forbidding the President, or his representative, from ordering wiretap surveillance to obtain foreign intelligence in the national interest. When Congress enacted Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. § 2511(3) thereof, it specifically denied any section 605 limitation, as follows:

> "(3) Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1143; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measure as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to ob-

tain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government. The contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing, or other proceeding only where such interception was reasonable and shall not be otherwise used or disclosed except as is necessary to implement that power."

This is a clear statement by Congress itself relative to the scope of the section 605 provisions which are not to limit the President's constitutional prerogative to obtain foreign intelligence information.

We reiterate that no use of the fifth log was made in this case against defendant. It played no part in his conviction and our in camera scrutiny thereof thoroughly convinces us that defendant was not prejudiced thereby. As the Supreme Court said in *Taglianetti* v. *United States*, 394 U. S. 316, 317, 318, 89 S. Ct. 1099, 1101 (1969), "Under the circumstances presented here, we cannot hold that 'the task is too complex, and the margin for error too great, to rely wholly on the *in camera* judgment of the trial court.' *Alderman* v. *United States, supra*, 394 U. S., at 182, 89 S. Ct., at 971." No one would seriously doubt in this time of

serious international insecurity and peril that there is an imperative necessity for obtaining foreign intelligence information, and we do not believe such gathering is forbidden by the Constitution or by statutory provision, including 47 U.S.C. § 605.

We are urged to reconsider the issues decided by us in our original decision in this case, 397 F. 2d 901, but we decline to do so.[9] We declined en banc reconsideration of our original decision and further refused en banc consid-

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[9] We have, however, examined the recent holding of the Supreme Court in Welsh v. United States, 398 U.S. 333, 90 S. Ct. 1792 (No. 76, October Term 1969, decided June 15, 1970), to determine if that decision affects the present case. In our view, it does not. The Supreme Court granted Welsh a conscientious objector status because of "deeply and sincerely" held ethical or moral beliefs which imposed on Welsh "a duty of conscience to refrain from participating in any war at any time." The Court found that Welsh's beliefs functioned "as a religion in his life," thereby entitling him to a "religious" conscientious objector exemption under Section 6(j) of the Universal Military Training and Service Act (50 U.S.C. App. §456(j)), 398 U.S. at 335, 90 S. Ct. at 1795. Section 6(j) grants an exemption from service in the Armed Forces to a registrant "who, by reason of religious training and belief, is conscientiously opposed to participation in *war in any form.*" (Emphasis supplied.) As we pointed out in our original opinion in this case, the Department of Justice recommendation (made in connection with the conscientious objector investigation), to the Kentucky Board of Appeals, stated that Clay's beliefs insofar as they are based upon the teachings of the Nation of Islam "rest on grounds which are primarily political and racial. These constitute objections *to only certain types of war in certain circumstances, rather than a general scruple against participation in war in any form.*" (Emphasis supplied.) *See* 397 F. 2d at 918-919. The Kentucky Board of Appeals thereafter continued the I-A classification of Clay. That there was also a "basis in fact" for the numerous local board, state appeal boards (Kentucky and Texas) and Presidential Appeal Board I-A classifications of Clay, thereby including an adverse determination of the question of Clay's basic sincerity, is amply shown and detailed in our original opinion and in the record to which reference is made. *See* 397 F. 2d at 918-921.

eration of this second hearing in this case. Our prior decision is the law of the case on the issues decided there, unless they are affected by the wiretapped telephone conversations.[10] In our view, the defendant's conviction was not so affected and accordingly the judgment of conviction should be

AFFIRMED.[11]

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[10] Defendant has cited the Presbyterian Ch. v. Mary E. B. Hull Mem. Pres. Ch., 393 U.S. 440, 89 S. Ct. 601 (1969), in support of its contention that the Department of Justice's analysis that the teachings of the Nation of Islam are primarily political and racial and that this interpretation violates the establishment clause of the First Amendment. We reject this argument for reasons which we have discussed in full in our original opinion in this case relative to Muslim tenets. *See* 397 F. 2d at 918-921.

[11] We have carefully considered all of the additional contentions of defendant, but find them to be without merit, and accordingly they are rejected.

Order Denying Petition for Rehearing and Petition for Rehearing *En Banc*

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 28252

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CASSIUS MARSELLUS CLAY, JR.,

Defendant-Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

ON PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC

(August 19, 1970)

Before:

WISDOM, AINSWORTH AND CLARK,

Circuit Judges.

PER CURIAM: The Petition for Rehearing is DENIED and the Court having been polled at the request of one of the members of the Court and a majority of the Circuit Judges who are in regular active service not having voted in favor of it, (Rule 35 Federal Rules of Appellate Procedure; Local Fifth Circuit Rule 12) the Petition for Rehearing En Banc is also DENIED.